

July 5, 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 stated the Leadership Planning Team has recommended postponement of Item No. 9, *Items Relating to Outdoor Vending Requirements*, to November 15.

● CITIZEN PARTICIPATION

Eric Sutherland discussed a culture of dishonesty within the City organization, opposed the Smart Meter program and process resulting in its installation.

Mike Pruznick opposed the redistricting process and discussed the Federal Railroad Administration meeting he was not allowed to attend.

Sandy Lemburg discussed City staff's treatment of citizen comments, noting staff should be more open and receptive. He requested the City establish a non-emergency phone number for police that is easy to remember.

Lynn Thompson, Fort Collins Homeless Coalition, discussed the camping ordinance, the need for a restroom to be open 24/7, and the need for additional trash receptacles.

Deborah (no last name given) opposed the manual reading charge for Smart Meters and requested the ability for citizens to call in their meter readings.

Deborah James, Fort Collins Homeless Coalition, discussed the need for additional restrooms and trash receptacles throughout the city and opposed ticketing for camping.

Carol Miller discussed the need for a systems approach for City staff to address decisions Council will make. She expressed concern regarding hurried decisions.

Meg Dunn discussed the history of her home at 720 West Oak which is set to be granted landmark status.

Cheryl Distaso, Fort Collins Homeless Coalition, requested Council consider the compromise suggested by the Coalition regarding not issuing camping tickets overnight. She expressed concern regarding information being provided by shelter directors.

● **CITIZEN PARTICIPATION FOLLOW-UP**

Councilmember Overbeck thanked Mr. Lemburg for speaking and commended his idea for developing an easy-to-remember non-emergency phone number.

Councilmember Overbeck suggested the creation of a regular meeting between community members and shelter service providers.

Councilmember Martinez commended Mr. Lemburg's idea for an easy-to-remember non-emergency phone number. He asked if shelters are having overflow issues this summer. Jackie Kozak-Thiel, Chief Sustainability Officer, replied 130 people were turned away from shelters in May and 55 were turned away in June. Catholic Charities has extended the number of overflow beds for women through the summer; however, funding has not been added to the Rescue Mission for overflow as the cost for that was around \$45,000.

Councilmember Martinez suggested that funding be considered.

Mayor Pro Tem Horak suggested there are additional funding resources at other levels which should be considered as part of the overall discussion around homelessness at the upcoming work session.

Councilmember Martinez discussed the importance of moving forward with solutions regarding homelessness.

Councilmember Campana discussed the complexity of the homelessness issue, stating the City is making progress.

Councilmember Stephens asked if the Nashville model and the City's progress toward that goal will be discussed at the work session. Kozak-Thiel replied in the affirmative and stated the nightly number of individuals turned away from shelters range from 3 to 8.

Mayor Pro Tem Horak suggested staff research how other communities with Smart Meters address the manual reading issue.

● **CONSENT CALENDAR**

Councilmember Campana withdrew Item No. 3, *First Reading of Ordinance No. 082, 2016, Appropriating Proceeds from the Issuance of City of Fort Collins, Colorado, Wastewater Utility Enterprise, Sewer Revenue Refunding Bonds, Series 2016A, in the Maximum Aggregate Principal Amount of \$21,900,000 in the Wastewater Utility Fund*, from the Consent Calendar.

Mike Pruznick withdrew Item No. 6, *First Reading of Ordinance No. 085, 2016, Amending Sections 26-98 and 26-128 of the Code of the City of Fort Collins Regarding Fire Sprinkler Systems for Single Family Attached Homes*, from the Consent Calendar.

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

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Gerry Horak, District 6
<b>SECONDER:</b>	Gino Campana, District 3
<b>AYES:</b>	Martinez, Stephens, Overbeck, Campana, Troxell, Cunniff, Horak

1. **Second Reading of Ordinance No. 077, 2016, Appropriating Unanticipated Grant Revenue in the General Fund for the Architectural Survey of the Loomis Addition in the Westside Neighborhood. (Adopted)**

This Ordinance, unanimously adopted on First Reading on June 21, 2016, appropriates unanticipated revenue received through a State Historical Fund grant. The State of Colorado has awarded a \$35,000 grant for an architectural survey of the fifteen-block Loomis Addition in the Westside Neighborhood.

2. **Second Reading of Ordinance No. 078, 2016, Authorizing the Conveyance of a Sewer Line Easement and a Temporary Construction Easement on Running Deer Natural Area to Boxelder Sanitation District in Exchange for the Vacation of an Existing Easement. (Adopted)**

This Ordinance, unanimously adopted on First Reading on June 21, 2016, authorizes conveyance of a utility easement and a temporary construction easement to Boxelder Sanitation District on Running Deer Natural Area. Boxelder Sanitation District (BES) provides sanitary sewer service to a portion of Fort Collins residents. An aging and undersized sanitary sewer line that passes through Running Deer Natural Area needs to be replaced to provide for existing and projected residents in their service area. BES and the City have agreed to a realignment of portions of the sewer line and terms to a new easement to minimize the impact to the Natural Area's vegetation, wildlife and visitors.

3. **First Reading of Ordinance No. , 2016, Approving a Revision to the Airport Operating Budget and Appropriating Reserves in the Airport Fund for the Northern Colorado Regional Airport to Complete the Strategic Plan Goals. (Adopted)**

The purpose of this item is to approve an amendment to the 2016 Airport operating budget and appropriate funds from the Airport Fund to initiate work associated with the City Council approved Airport Strategic Plan. The Northern Colorado Regional Airport Commission has reviewed and approved this request; additionally the City of Fort Collins Council Finance Committee has also been presented with this information. The 2016 Airport operating budget will be amended to authorize expenditure of the total amount of \$165,000 from the Airport Fund. The City of Fort Collins will appropriate 50% (\$82,500) of the total \$165,000 request, and the City of Loveland will be providing the other half of the appropriation. This appropriation is needed as the funding resources were not included in the adopted 2016 Airport Budget approved by Council and expenditure of additional funds not included in the Budget requires City Council appropriation as outlined in the current Intergovernmental agreement between the Cities.

4. **First Reading of Ordinance No. 084, 2016, Appropriating Prior Year Reserves in the Data and Communications Fund for Implementation of Electronic Plan Review. (Adopted)**

The purpose of this item is to appropriate funds from the reserves of the Data and Communications Fund for implementation of electronic plan review as part of the building permit and development review process.

5. **First Reading of Ordinance No. 087, 2016, Designating the Leo and Hilda Ritter Property, 720 West Oak Street, Fort Collins, Colorado, as a Fort Collins Landmark Pursuant to Chapter 14 of the Code of the City of Fort Collins. (Adopted)**

This item is a quasi-judicial matter and if it is considered on the discussion agenda, it will be considered in accordance with the procedures described in Section 1(e) of the Council's Rules of Meeting Procedures adopted in Resolution 2015-091.

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The purpose of this item is to designate the Leo and Hilda Ritter property located at 720 West Oak Street as a Fort Collins Landmark. The owners of this property, Margaret M. Kool Dunn and Robert Louis Dunn 3rd, are initiating this request. The 1925 Craftsman-style residence and detached garage are eligible for recognition as a Landmark due to their historic integrity and significance to Fort Collins under Designation Standard C, Design/Construction.

- **END CONSENT**

- **STAFF REPORTS**

Erika Rasmussen, Special Projects Engineer, stated the City has executed an agreement with the Great Western Railway to replace the track crossing at Lemay and Riverside with work beginning July 14. Lemay Avenue will be closed for five days with this project.

- **COUNCILMEMBER REPORTS**

Councilmember Campana reported on the Tae Kwon Do Open Streets performance and a presentation he gave on the "It's On Us" initiative to the National League of Cities.

Councilmember Overbeck reported on the Elderhaus open house at its new location.

Councilmember Cunniff reported on the annual legislative breakfast.

Mayor Pro Tem Horak reported on the Energy, Environment and Natural Resources Committee meeting at the National League of Cities conference regarding taxing rebates. He reported on the Colorado Municipal League conference regarding sign codes, long-term rentals, and urban renewal authorities.

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

6. **First Reading of Ordinance No. 082, 2016, Appropriating Proceeds from the Issuance of City of Fort Collins, Colorado, Wastewater Utility Enterprise, Sewer Revenue Refunding Bonds, Series 2016A, in the Maximum Aggregate Principal Amount of \$21,900,000 in the Wastewater Utility Fund. (Adopted on First Reading)**

*The purpose of this item is to appropriate the proceeds from the Revenue Refunding Bond, series 2016A, for the purpose of refinancing the callable portion of the 2009A Revenue Bonds. Proceeds will be used to pay off callable bonds as well as pay for cost of issuance fees. The proceeds from the original 2009A bonds of \$30.7 million were used to make improvements to the Mulberry Water Reclamation Facility. Savings are anticipated to be \$2.4 million.*

Mayor Pro Tem Horak withdrew from the discussion of this item due to a conflict of interest.

Councilmember Campana made a motion, seconded by Councilmember Overbeck, to adopt Ordinance No. 082, 2016, on First Reading.

<b>RESULT:</b>	<b>ORDINANCE NO. 082, 2016, ADOPTED ON FIRST READING [6 TO 0]</b>
<b>MOVER:</b>	Gino Campana, District 3
<b>SECONDER:</b>	Bob Overbeck, District 1
<b>AYES:</b>	Martinez, Stephens, Overbeck, Campana, Troxell, Cunniff
<b>RECUSED:</b>	Horak

● **DISCUSSION ITEMS**

7. **Second Reading of Ordinance No. 073, 2016, Authorizing the Acquisition by Eminent Domain of Additional Lands Necessary to Construct Public Improvements as Part of the Prospect Road and College Avenue Intersection Improvements Project.** (Defeated on Second Reading)

*The purpose of this item is to obtain authorization from City Council to use eminent domain, if necessary, to acquire property interests needed to construct improvements to the intersection of Prospect Road and College Avenue. This authorization is for the two residential properties at the east end of the project.*

*Ordinance No. 043, 2016 was adopted on Second Reading on April 19, 2016, allowing City staff to begin the property acquisition process for the preferred alternative on the six commercial properties at this intersection.*

*Staff delayed the residential properties approximately six weeks to allow additional design work and discussions with the property owners.*

*The following work has been done recently in regards to the residential properties:*

- *Council Work Session presentation and discussion on April 12, 2016, resulting in:*
  - *Majority support for dual westbound left turn lanes*
  - *Request to provide follow-up on additional design questions*
- *Meeting with Mayor Pro Tem Horak, City Manager, City staff and affected property owners to discuss property owners requested design (April 25, 2016).*
- *Memo to Council providing detailed analysis of the impacts and benefits of moving the roadway south to avoid wall impacts.*
- *Support from Transportation Board and Bicycle Advisory Committee on staff's preferred alternative.*

*Timely acquisition of the property is necessary to meet the anticipated construction schedule. Staff will negotiate in good faith with the affected owners and is optimistic that all property negotiations can be completed prior to the start of the Project. Staff is requesting authorization of eminent domain for all property acquisitions for the Project only if such action is necessary in order to keep the project on schedule. Ordinance No. 073, 2016 was adopted on First Reading on May 17, 2016 by a vote of 5-2 (Nays: Cunniff, Overbeck).*

Laurie Kadrich, Planning, Development and Transportation Director, stated this item would authorize the use of eminent domain, if necessary, for two residential properties near the intersection of Prospect and College. Negotiations of up to ten months would occur prior to the use of any eminent domain and the staff proposal continues to include the recommended concept for dual westbound turn lanes. Funding for the intersection project was previously appropriated.

Dean Klingner, Capital Projects Engineer, stated both the preferred alternative and the single westbound left alternative, which does not impact the wall or tree at 1535 Remington, were presented to the Transportation Board and Bicycle Advisory Committee. The southern shift

alternative, which was completed in early May, has not been presented to any boards. The southern shift alternative has not been recommended by staff primarily due to cost. In terms of lowering the design speed for the intersection, staff agrees that lower speeds can lead to less severe crashes; however, adding sharper curves and posting a lower speed limit will not result in lower operational speeds.

Councilmember Cunniff made a motion, seconded by Councilmember Overbeck, to allow each speaker three minutes rather than two and a half. Yeas: Troxell, Martinez, Campana, Overbeck, Stephens, Cunniff and Horak. Nays: None.

**THE MOTION CARRIED.**

C.W. Miller stated the staff recommended alternative is flawed and resulted from a process which did not include proper public input. He encouraged Council to oppose the ordinance.

Anne Cleary, 1535 Remington, opposed the overly-rushed manner in which this process unfolded. She stated eminent domain should not be used for the purpose of adhering to an arbitrary rushed schedule.

Sarah Brooks expressed disappointment in the potential use of eminent domain and the seeming fact the City values the motoring experience of those driving through the intersection more than those who live near the intersection.

Chris Johnson, Bike Fort Collins, suggested lane widths of ten feet are appropriate in urban areas and have a positive impact on street safety without impacting traffic operations. He opposed the use of eminent domain in this situation and encouraged Council and staff to examine national recommendations regarding lane widths.

Sandy Lemburg opposed approving the use of eminent domain prior to negotiations and stated cost savings is not an appropriate use for eminent domain.

Josh Disney discussed the high cost of the alternative intersection design to the city and community at-large. Many citizens will benefit from the redesign of the intersection while only one family will be negatively impacted.

Brad Conner stated the loss of trees is a loss for the community.

Mike Pruznick opposed the ordinance and expressed concern regarding the process to this point. He questioned how this proposal will solve any issues.

Eric Sutherland stated the City's process of authorizing the use of eminent domain prior to negotiating with property owners is atypical.

Jessica Witt stated this is a difficult challenge which cannot be resolved in this short period of time. She opposed the staff alternative as including aspects that are not necessary.

Carol Miller stated the process for these types of decisions needs to be revised to include a complete systems review.

Kevin Harper, 1535 Remington, opposed the authorization of eminent domain prior to negotiations.

Councilmember Cunniff requested an assessment of the existing left turn storage condition. Klingner replied he would measure that information from the distance.

Councilmember Cunniff asked if staff could imagine a process in which Council does not approve eminent domain action until negotiations have not reached a satisfactory conclusion. Helen Matson, Real Estate Services Manager, replied it is the City's process to ask for eminent domain if needed prior to appraisals and negotiations. Much more time would be needed in the process in order to ask for eminent domain following negotiations.

Klingner stated the current left turn storage condition is about 100-130 feet in both lanes. The staff-preferred alternative as presented varies the lane width throughout the project.

Councilmember Cunniff asked if staff is aiming for 40 mile per hour design standards for arterials. Klingner replied in the affirmative and noted a context-sensitive compromise has been to use 35 miles per hour.

Councilmember Cunniff noted there is not a corridor plan on the northeast side of Prospect that mandates the sidewalks. Klingner replied in the affirmative.

Mayor Troxell asked if any of these options would still be going through the eminent domain process with the City's current procedure. Klingner replied in the affirmative.

Mayor Troxell stated it is highly unusual to be focusing on the specific design at this point in the process. Klingner agreed with that assessment.

Mayor Troxell discussed the City's history of not using eminent domain, noting the number of properties resolved through court processes has been zero over the last five years.

Councilmember Campana asked how other communities handle this issue. Matson replied Aurora prefers to never use eminent domain and to put more money into projects. Loveland waits a bit longer to start its process. If the process to authorize eminent domain is not started until after negotiations have failed, each property may need to go before Council to authorize eminent domain individually.

City Manager Atteberry noted Council can address the eminent domain process and procedures at a later date.

Councilmember Overbeck asked about the range of cost for the intersection improvements and how the \$1.3 million figure came to be. Klingner replied the notes referenced by a citizen are handwritten from a project notebook and were not all inclusive. The figure is a best estimate for a fair decision number; however, it could be slightly higher or lower.

Councilmember Overbeck asked if 3600 square feet is the estimate of property to be acquired from the Harper/Cleary property. Klingner replied that includes the temporary construction easement.

Councilmember Overbeck asked if the City has calculated the benefits of mature trees. Tim Buchanan, City Forester, replied larger trees have greater value in a general sense. Staff does have the ability to place a dollar value on trees; however, that has not yet occurred in this case.

Councilmember Overbeck stated the value of the tree should be known as part of the public process. Buchanan replied the range of mitigation for the trees which may be lost would be between two and three mitigation trees per lost tree.

Mayor Troxell asked about the tree species. Buchanan replied there is a large blue spruce tree with a 24-inch diameter and 50-foot height; blue spruce typically has a lifespan of 80-100 years and this tree has decades left in its life.

Mayor Troxell asked if the tree's root structure is impacted under the current conditions. Buchanan replied in the affirmative, stating the wall disrupted the root system somewhat.

Matson stated the City will provide a property appraisal and will reimburse the property owners for their private appraisal, both of which will include the value of the tree.

City Manager Atteberry noted he cannot recall any time during which the value of a property, structure, tree or otherwise has been shared during or prior to negotiations. Councilmember Overbeck stated decisions should be data-driven.

Councilmember Martinez asked about the comparison of cars idling with no changes to the intersection versus the pollution protection offered by this tree. Buchanan replied there is a significant amount of pollution removal per tree.

Councilmember Cunniff asked if the existing condition meets minimum engineering standards. Klingner replied in the affirmative.

Councilmember Cunniff asked if there is a way to quantify the benefits of each of the alternatives. Klingner replied there would be no measurable difference in fatalities for any of the alternatives.

Mayor Pro Tem Horak asked if the southern alternative needs twice as much right-of-way. Klingner replied in the negative noting the table is not meant to be quantitative.

Councilmember Campana stated minimizing the design of an intersection to save a couple trees and a wall does not make sense.

Councilmember Campana made a motion, seconded by Councilmember Martinez, to adopt Ordinance No. 073, 2016, on Second Reading.

Mayor Pro Tem Horak asked if there are any corridor plans for East Prospect. Klingner replied in the negative.

Councilmember Cunniff stated he would not support the motion as the City's eminent domain process sacrifices the interest of individual property owners and citizens. He suggested the policy should be examined with respect to commercial versus residential properties and noted all of the alternatives reduce congestion. He expressed concern about the construction of the intersection without a corridor plan going east.



Councilmember Stephens asked if 10-foot sidewalks were being considered to accommodate bicycles or because of ADA standards. Klingner replied 10-foot sidewalks are not needed for ADA; the 10-foot involves a complete street concept for Fort Collins and a minimum standard for pedestrians, not necessarily bikes.

Councilmember Campana agreed eminent domain processes should differ between residential and commercial properties. He noted funds have already been appropriated for the intersection construction and the authority for eminent domain for the majority of the properties around this intersection has been granted using the same process under question currently.

Councilmember Overbeck stated a better collaborative process with citizens should be completed.

Mayor Pro Tem Horak stated Mr. Harper and Ms. Cleary have been willing to compromise on some portions of their property and have been quite data driven in terms of making their argument. He stated eminent domain has been authorized for areas which have a plan and he cannot support moving forward with this given it is not part of an overall plan.

Councilmember Stephens stated this is a failing intersection; however, there is room for process improvements and a larger corridor plan.

Councilmember Martinez stated this intersection presents public safety concerns and the staff engineers have good credibility in their design efforts. He noted the City has a fiduciary responsibility to taxpayers to not unnecessarily throw extra money at a project.

Councilmember Campana stated that while the City does not have a policy requiring corridor plans, this intersection is mentioned in a number of plans and has been on the improvement list for years. He requested Council develop an alternative to simply postponing construction with an affirmative vote on this motion.

<b>RESULT:</b>	<b>ORDINANCE NO. 073, 2016, DEFEATED ON SECOND READING [3 TO 4]</b>
<b>MOVER:</b>	Gino Campana, District 3
<b>SECONDER:</b>	Ray Martinez, District 2
<b>AYES:</b>	Martinez, Campana, Troxell
<b>NAYS:</b>	Stephens, Overbeck, Cunniff, Horak

Councilmember Cunniff suggested directing staff to develop a plan that best maximizes the safety and congestion benefit while seeming likely to reach a satisfactory conclusion with the property owners with a deadline of four months.

Councilmember Overbeck supported Councilmember Cunniff's suggestion.

Councilmember Campana requested staff provide information regarding the cost of the delay and impact to the construction schedule.

Mayor Troxell suggested the staff preferred alternative be included and encouraged staff to look out for the City's best interest.

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

8. **Items Relating to Proposed Outdoor Vendor Requirements. (Postponed to November 15, 2016)**
- A. *Second Reading of Ordinance No. 079, 2016, Amending Article XIV of Chapter 15 of the Code of the City of Fort Collins Regarding Outdoor Vendors.*
- B. *Second Reading of Ordinance No. 080, 2016, Amending Articles 3, 4 and 5 of the Land Use Code Regarding Outdoor Vendors.*

*These Ordinances, unanimously adopted on First Reading on June 21, 2016, amend the City Code and Land Use Code to update property owner and outdoor vendor requirements. The intent of the original 2012 Code provisions for outdoor vendor operations was to manage a mobile operation and address specific mobile vendor impacts and requirements as a temporary, accessory land use. The proposed changes clarify and distinguish between two primary outdoor vending operations, mobile and stationary, including land use locational requirements for vending on privately-owned lots. Both Ordinances have been amended since First Reading to provide that these amendments to the City Code and Land Use Code will not go into effect until January 15, 2017. This will give vendors and property owners six months to adjust their operations to these new regulations.*

Mayor Pro Tem Horak made a motion, seconded by Councilmember Overbeck, to postpone Second Reading of Ordinance No. 079, 2016 to November 15, 2016.

Mayor Pro Tem Horak stated more outreach is needed before Council completes its consideration of this topic.

<b>RESULT:</b>	<b>SECOND READING OF ORDINANCE NO. 079, 2016 POSTPONED TO NOVEMBER 15, 2016 [UNANIMOUS]</b>
<b>MOVER:</b>	Gerry Horak, District 6
<b>SECONDER:</b>	Bob Overbeck, District 1
<b>AYES:</b>	Martinez, Stephens, Overbeck, Campana, Troxell, Cunniff, Horak

Mayor Pro Tem Horak made a motion, seconded by Councilmember Martinez, to postpone Second Reading of Ordinance No. 080, 2016 to November 15, 2016. Yeas: Martinez, Stephens, Overbeck, Campana, Troxell, Cunniff and Horak. Nays: none.

THE MOTION CARRIED.

<b>RESULT:</b>	<b>SECOND READING OF ORDINANCE NO. 080, 2016, POSTPONED TO NOVEMBER 15, 2016 [UNANIMOUS]</b>
<b>MOVER:</b>	Gerry Horak, District 6
<b>SECONDER:</b>	Ray Martinez, District 2
<b>AYES:</b>	Martinez, Stephens, Overbeck, Campana, Troxell, Cunniff, Horak

9. **Items Relating to the Designation of the Coy Farmstead Woodward Technology Center, a Fort Collins Landmark Pursuant to Chapter 14 of the Code of the City of Fort Collins. (Option A or Option B) (Adopted as Amended on First Reading)**
- A. *First Reading of Ordinance No. 088, 2016, Non-Consensually Designating the Coy Farmstead Barn and Milk House Located on the Woodward Technology Center Subdivision as Individual Fort Collins Landmarks pursuant to Chapter 14 of the Code of the City of Fort Collins. (Option A)*

**Or**

- B. *First Reading of Ordinance No. 088, 2016, Designating the Coy Farmstead Barn and Milk House Located on the Woodward Technology Center Subdivision as Individual Fort Collins Landmarks pursuant to Chapter 14 of the Code of the City of Fort Collins. (Option B)*

*This item is a quasi-judicial matter and will be considered in accordance with the procedures described in Section 1(e) of the Council's Rules of Meeting Procedures adopted in Resolution 2015-091.*

*The purpose of this item is to consider a landmark designation application for the Coy Farmstead, located on the Woodward Technology Center property, brought forward by seventy-six Fort Collins residents. The Coy Farmstead currently consists of an 1866 stone and timber barn and a c.1900 brick milk house. Two historic silos associated with the property were recently removed. The owner of the property, Woodward, Inc., has not consented to landmark designation, except if certain conditions are attached to the designation. City Code Chapter 14, Landmark Preservation, provides a process for the Landmark Preservation Commission review of an application absent an owner's consent, which culminates with a recommendation to Council on the designation.*

*In order to facilitate Council's consideration and action on this item, two versions of a designation ordinance are presented.*

City Attorney Daggett explained the designation hearing process.

Mayor Troxell outlined the time allotments for each group to speak.

Councilmember Overbeck stated he serves on the Poudre Heritage Alliance Board which has prepared an interpretive sign for the site but did not believe he had a conflict of interest.

Laurie Kadrich, Planning, Development and Transportation Director, stated this is the third step in a process for non-consensual historic designation of buildings on the Woodward site.

Karen McWilliams, Historic Preservation Manager, summarized the historic designation process to date, noting a property has to have both significance and integrity to be eligible to be a Fort Collins landmark. At its May 11, 2016 meeting, the Landmark Preservation Commission found the Coy Farmstead to not be eligible as an historic district stating it lacked sufficient integrity to be designated without its silos. At the same meeting, the Commission found the barn and milk house to both be individually eligible for landmark status. McWilliams discussed the non-consensual versus consensual designation and stated Council has previously designated two individual properties and three landmark districts non-consensually.

Kadrich noted the Commission had described one of its motions as consensual. Woodward objected to that because the Commission did not consider all of the elements proposed by Woodward.

Councilmembers Cunniff and Overbeck acknowledged earlier site visits by themselves and other Councilmembers.

Mayor Pro Tem Horak stated many Councilmembers were also at the Woodward property dedication.

## APPLICANT PRESENTATION

Gina Janett stated she is the lead applicant for the 138 signers supporting non-consensual designation of the Coy Farmstead Historic District. She supported the individual designation of the barn and milk house structures.

Carol Tunner discussed the historic value of the site and structures. She stated a non-consensual designation is appropriate because the site meets the criteria.

Ms. Janett stated her group, the Landmark Preservation Commission, and staff are in agreement on five of the six conditions outlined by Woodward with the exception of the opt in, opt out condition. She encouraged Council to adopt Option A of the Ordinance, a non-consensual designation which includes the five conditions.

#### OPPONENT PRESENTATION

Caroyne White, outside counsel for Woodward, stated Woodward remains committed to its functional adaptive reuse plan, as approved by the Community Development and Neighborhood Services Director and the Landmark Preservation Commission Vice-Chair through the normal process, as long as it can proceed to implement the plan without further LPC review and additional public hearings. The plan includes the barn and milk house, as well as the collaborative work space where the silos once stood.

Ms. White stated Woodward is opposed to non-consensual designation of the structures as local landmarks as that designation does not allow the property owner to do as it sees fit with its own property without first seeking approval of any exterior alterations through the LPC process.

Chris Fawzy, in-house general counsel for Woodward, stated Woodward has proposed to the LPC certain conditions under which Woodward would be willing to consent to local landmark designation. He requested Council adopt Option B with a minor modification and discussed the significant concession on Woodward's part of agreeing to a consensual designation. The consensual designation on Woodward's part would be coupled with a commitment by the City to not expand nor consider the expansion of the designation at any point in the future. In terms of item number 7 of Option B, Mr. Fawzy requested the removal of the term "it is Council's intent that"...

#### PUBLIC PARTICIPATION

Eric Sutherland questioned the value of anything considered a "taking", as that term reflects harm done to an entity. He opposed the quasi-judicial proceeding utilized to discuss this item.

David May, Chamber of Commerce President, supported Option B as a win-win option and opposed non-consensual designation as being hostile.

Mary Hemstone supported the non-consensual designation and noted that designating structures as landmarks does not constitute a taking of private property. She expressed concern regarding items 6 and 7 in Option B.

Myrne Watrous supported non-consensual designation.

Wendy Campbell supported non-consensual designation.

#### APPLICANT REBUTTAL

Ms. Janett noted there is nothing on the site other than the two buildings to designate; therefore, Woodward's concern regarding expansion of the designation is a moot point. She suggested an

agreement between the City and Woodward is not sufficient in case of land ownership changes and stated conditions 6 and 7 of Option B circumvent the intent of the Code to make landmark designations largely permanent.

#### OPPONENT REBUTTAL

Mr. Fawzy stated Woodward could only exercise the "opt-out" right if Council elects to consider a designation or elects to do something that otherwise alters or eliminates any of the conditions upon which Woodward has consented to the designation to begin with.

#### COUNCIL DISCUSSION

Councilmember Campana asked about the crafting of Option B. City Attorney Daggett replied Woodward has communicated with staff about some willingness to provide consensual designation assuming some of its concerns were addressed. This Option addresses conditions that are legally defensible from the City's standpoint and articulates the concerns from Woodward. She stated staff is willing to strike the term "it is the Council's intent" per Woodward's request.

Mayor Troxell asked what would be considered a trigger event noting it is narrowly defined around the consensual designation. City Attorney Daggett replied the condition is aimed at the landmark designation only; therefore, other types of regulatory processes which might apply to the site would still apply.

Councilmember Cunniff expressed concern regarding section 6 given the ambiguity of the language. He suggested replacing the term "any other governing body" with "Council designees" and "consider" with "approve". He made additional language suggestions and asked if they would satisfy the applicants.

Ms. Janett replied the language may make things better for Council; however, it seems odd that Council would waive a provision of the Code not expecting to set a precedent which could undermine the basis of historic preservation in the city.

Mr. Fawzy agreed to the "Council designee" but expressed concern regarding the term "approve" as Woodward does not want to have to engage in this process again.

City Attorney Daggett outlined the wording changes as suggested by Councilmember Cunniff.

Ms. Janett suggested Council include additional language related to the waiver of City Code for this single applicant.

Ms. Humstone expressed concern with the language.

Mr. Fawzy expressed concern regarding the "approve" term and noted Woodward's intent regarding historic preservation related action is related to these proceedings and the landmark designation.

Councilmember Cunniff stated it is an absolute requirement for him that section 7 be limited to Chapter 14.

Various iterations of the language were discussed by Council, the applicants, and Woodward representatives.

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

City Attorney Daggett outlined the wording changes to the Ordinance and explained the specific changes as follows: this makes clear this would give a right only to Woodward, the triggering event for a designation termination by Woodward would be an initial action taken by Council as opposed to a final action, and the action would be the approval of such expansion or any conditions in the ordinance being invalidated.

Councilmember Campana made a motion, seconded by Councilmember Martinez, to approve Ordinance No. 088, 2016, Option B as amended, on First Reading.

Mayor Pro Tem Horak noted this property has owners who will protect and secure the buildings.

Councilmember Cunniff expressed concern with the final language and setting a precedent.

Councilmember Campana thanked those involved for their work and efforts.

City Attorney Daggett clarified the map found on page 839 of the agenda packet should replace Exhibit B in the ordinance.

Councilmembers Campana and Martinez accepted that change as part of their motion.

Mayor Troxell thanked Woodward for working toward a consensual designation.

Mayor Pro Tem Horak suggested changing the language to add 'court after exhaustion of all appeals.'

Councilmembers Campana and Martinez accepted that change as part of their motion.

<b>RESULT:</b>	<b>ORDINANCE NO. 088, 2016, ADOPTED AS AMENDED ON FIRST READING [6 TO 1]</b>
<b>MOVER:</b>	Gino Campana, District 3
<b>SECONDER:</b>	Ray Martinez, District 2
<b>AYES:</b>	Martinez, Stephens, Overbeck, Campana, Troxell, Horak
<b>NAYS:</b>	Cunniff

● **EXTENSION OF MEETING**

Councilmember Cunniff made a motion, seconded by Councilmember Stephens, to extend the meeting to consider the remaining agenda items.

<b>RESULT:</b>	<b>APPROVED 4-3</b>
<b>MOVER:</b>	Ross Cunniff, District 5
<b>SECONDER:</b>	Kristin Stephens, District 4
<b>AYES:</b>	Stephens, Overbeck, Troxell, Cunniff
<b>NAYS:</b>	Martinez, Campana, Horak

11. **Second Reading of Ordinance No. 081, 2016, Appropriating Prior Year Reserves in the General Fund for 2016 Projects Associated with the 2020 Climate Action Plan (CAP) Strategic Plan. (Postponed to July 19, 2016)**

*This Ordinance, unanimously adopted on First Reading on June 21, 2016, appropriates funding from the General Fund to implement two initiatives outlined in the Draft 2020 Climate Action Plan (CAP) Strategic Plan: First, the Ordinance appropriates \$85,000 accumulated during 2015 and 2016 in the Waste Innovation Fund account into the City's General Fund account to initiate the Municipal Green Waste (Composting) Site Initiative. Second, based on direction at First Reading, the Ordinance also appropriates \$1,460,000 from the General Fund to provide energy efficiency rebates for the business community (\$1.37M) and the Efficiency Works Neighborhoods Pilot (\$0.09M) through 2016.*

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to postpone consideration of this item to the regular Council meeting on July 19, 2016.

Mayor Pro Tem Horak stated this postponement will provide the opportunity to address various concerns.

<b>RESULT:</b>	<b>ORDINANCE NO. 081, 2016, POSTPONED TO JULY 19, 2016 [UNANIMOUS]</b>
<b>MOVER:</b>	Gerry Horak, District 6
<b>SECONDER:</b>	Ross Cunniff, District 5
<b>AYES:</b>	Martinez, Stephens, Overbeck, Campana, Troxell, Cunniff, Horak

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

12. **First Reading of Ordinance No. 085, 2016, Amending Sections 26-98 and 26-128 of the Code of the City of Fort Collins Regarding Fire Sprinkler Systems for Single Family Attached Homes. (Postponed to July 19, 2016)**

*The purpose of this item is to create a new rate class to accommodate the short-term high flow rate water service demands for single family attached homes with residential fire suppression systems and to make related changes regarding water meter requirements and installation. Changes to the International Residential Code adopted by the City in 2014 increased the short-term high flow rate water service demands for single family attached homes (such as townhomes and condominiums) due to the inclusion of residential fire suppression systems. Staff is proposing that a new rate class be created in order to accommodate these demands and to make related changes regarding water meter requirements and the installation related to fire sprinkler systems for single family attached homes.*

Mayor Pro Tem Horak made a motion, seconded by Councilmember Overbeck, to postpone consideration of this item to the July 19 Council meeting.

<b>RESULT:</b>	<b>ORDINANCE NO. 085, 2016 POSTPONED TO JULY 19, 2016 [UNANIMOUS]</b>
<b>MOVER:</b>	Gerry Horak, District 6
<b>SECONDER:</b>	Bob Overbeck, District 1
<b>AYES:</b>	Martinez, Stephens, Overbeck, Campana, Troxell, Cunniff, Horak

● **OTHER BUSINESS**

Councilmember Martinez requested support for considering the placement of the Climate Action Plan before voters.

Mayor Pro Tem Horak suggested a work session to discuss the Plan and noted every action regarding it has been taken publicly and by ordinance.

July 5, 2016

Councilmember Cunniff agreed with the idea of a work session for further public dialogue and debate.

Councilmember Campana agreed some of the Plan's action items are not incredibly tangible and noted there are controversial aspects; therefore, if it is put before the voters with a funding source, future decision makers will have an easier time implementing the Plan.

Councilmember Stephens stated a work session could allow the community to discuss the benefits of the Plan rather than just its costs.

Councilmember Overbeck supported a work session.

Mayor Troxell stated this is an energy futures issue.

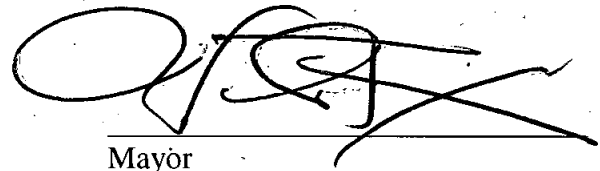
**ADJOURN TO JULY 12, 2016**

Mayor Pro Tem Horak made a motion, seconded by Councilmember Overbeck, to adjourn to 6:00 PM on Tuesday, July 12, 2016 to consider the Maple Mixed Use appeal, as well as any other items that may come before the Council.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Gerry Horak, District 6
<b>SECONDER:</b>	Bob Overbeck, District 1
<b>AYES:</b>	Martinez, Stephens, Overbeck, Campana, Troxell, Cunniff, Horak

● **ADJOURNMENT**

The meeting adjourned at 11:30 PM.

  
\_\_\_\_\_  
Mayor

ATTEST:



  
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City Clerk