

April 18, 2017

COUNCIL OF THE CITY OF FORT COLLINS, COLORADO

Council-Manager Form of Government

Regular Meeting – 6:00 PM

● **ROLL CALL**

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

Staff Present: Atteberry, Daggett, Winkelmann

● **AGENDA REVIEW: CITY MANAGER**

City Manager Atteberry stated two public hearings are listed on the Consent Agenda for Item Nos. 9, *Public Hearing and Second Reading of Ordinance No. 052, 2017, Amending Chapter 19 of the Code of the City of Fort Collins to Adopt the Colorado Rules of Civil Procedure to Govern the Procedures for Civil Actions Filed in Municipal Court and to Add City Code Section 1-24 to Clarify that Civil Actions Arising Under the City's Ordinances are not Intended to Create by Implication Claims for Monetary Damages for the Benefit of Third Parties* and 13, *Public Hearing and First Reading of Ordinance No. 056, 2017, Amending Chapter 9 of the Code of the City of Fort Collins and Adopting by Reference the 2015 International Fire Code, with Amendments*. He withdrew Item No. 19, *Resolution 2017-037 Appointing an Unaffiliated Member to the Boxelder Basin Regional Stormwater Authority Board of Directors by Mutual Agreement of Fort Collins and Larimer County*, from the agenda.

● **City Manager Comments**

In relation to a police incident in Old Town, City Manager Atteberry stated Chief Hutto has charged the department's Professional Standards unit to investigate the incident and have the Citizen Review Board conduct an investigation. The City is committed to preserving a process that ensures fair and impartial outcomes for all parties involved. The officer who was involved has been placed on administrative leave while the investigation continues. Once the investigation and the review processes are complete, all of the body-worn videos related to the incident will be released.

● **CITIZEN PARTICIPATION**

Stacia Ryder, Women's Commission, thanked the Mayor and Council for recognizing sexual assault awareness month and for its support of the It's On Us campaign.

Mel Hilgenberg reported Jack Daniels is doing well at the hospital after a non-injury fall. He discussed affordable housing and the Old Town trolley.

Ryan Houdek requested Council put the downtown smoking ban on its retreat agenda and suggested changes be made to the Ordinance.

Laura Larson, Executive Director of SAVA, thanked the Mayor and Council for recognizing sexual assault awareness month and for its support of the It's On Us campaign. She encouraged Council to allot additional funding for victim services in the community.

Juan Caro discussed excessive force used by Fort Collins Police and stated officers should be held accountable.

Katie Abeyta, SAVA, discussed the services provided by SAVA and encouraged Council to allot additional funding for victim services in the community.

Daniela Pineda Soraca, Colorado State University Student Body President, discussed excessive force used by Fort Collins Police.

Julia Luciano, SAVA, thanked Council for recognizing April as Sexual Assault Awareness Month, and encouraged additional funding for human services.

Marilyn (no last name given) supported grandfathering short-term rentals in non-conforming zones.

Jeff Jensen encouraged Council members to represent its citizens and all sides of issues.

Leila Lamborne supported revisions to the Old Town smoking ban as the current ban does not allow reasonable alternatives for smokers.

John Anderson discussed police incidents.

Kristy Rogers stated she runs a business in Old Town and has never been bothered by smoking. She encouraged Council to reconsider the ban as it is damaging to Old Town.

Michael Korn discussed the police incident in Old Town. He supports the police but expressed shock about the incident.

Ty Fulcher urged Council to reconsider the Old Town smoking ban.

Jennifer Spencer discussed the police incident in Old Town and stated it moves in the opposite direction of trust and tolerance.

Kwon Atlas discussed the police incident in Old Town and stated excessive force was used.

Joslie Lane stated the officer involved in the Old Town incident is a good officer and commended Fort Collins Police Services.

Lauren Atlas stated she supports the police; however, she expressed concern regarding a personal experience and use of excessive force by officers.

Joe Rowan discussed housing costs.

Nina (no last name given) discussed her experience being assaulted by a police officer in Greeley.

Juliana Cohen discussed the police incident in Old Town and stated the officer used excessive force.

Tina Chavez thanked Fort Collins Police for being accountable and using body-worn cameras.

● **CITIZEN PARTICIPATION FOLLOW-UP**

Councilmember Martinez expressed appreciation for the speakers and assured citizens the Old Town incident will be thoroughly investigated.

Councilmember Stephens stated the Old Town incident will be fully investigated. She thanked the Women's Commission and SAVA for their partnership.

Councilmember Cunniff stated he is confident policies and procedures will be improved as necessary regardless of the outcome of the investigation of the Old Town incident.

Councilmember Overbeck thanked the speakers and assured citizens the Old Town incident will be thoroughly investigated.

Mayor Pro Tem Horak stated the investigation of the Old Town incident will involve much more information than just the existing video.

Mayor Troxell thanked the speakers and supported an examination of the Old Town smoking ban. He commended the work of SAVA and supported the It's On Us campaign.

● **CONSENT CALENDAR**

Mayor Troxell opened the public hearings for Item Nos. 9, *Public Hearing and Second Reading of Ordinance No. 052, 2017, Amending Chapter 19 of the Code of the City of Fort Collins to Adopt the Colorado Rules of Civil Procedure to Govern the Procedures for Civil Actions Filed in Municipal Court and to Add City Code Section 1-24 to Clarify that Civil Actions Arising Under the City's Ordinances are not Intended to Create by Implication Claims for Monetary Damages for the Benefit of Third Parties* and 13, *Public Hearing and First Reading of Ordinance No, 056, 2017, Amending Chapter 9 of the Code of the City of Fort Collins and Adopting by Reference the 2015 International Fire Code, with Amendments*.

Councilmember Martinez withdrew Item No. 13, *Public Hearing and First Reading of Ordinance No, 056, 2017, Amending Chapter 9 of the Code of the City of Fort Collins and Adopting by Reference the 2015 International Fire Code, with Amendments*, from the Consent Agenda.

Eric Sutherland withdrew Item Nos. 3, *Second Reading of Ordinance No. 039, 2017, Appropriating Prior Year Reserves in the Transportation Fund for Regional Contribution to Larimer County for North I-25 Improvements*, 9, *Public Hearing and Second Reading of Ordinance No. 052, 2017, Amending Chapter 19 of the Code of the City of Fort Collins to Adopt the Colorado Rules of Civil Procedure to Govern the Procedures for Civil Actions Filed in Municipal Court and to Add City Code Section 1-24 to Clarify that Civil Actions Arising Under the City's Ordinances are not Intended to Create by Implication Claims for Monetary Damages for the Benefit of Third Parties*, and 10, *First Reading of Ordinance No. 053, 2017, Appropriating Prior Year Reserves in the Transportation Fund for Consulting Services Related to Interstate 25 (I-25) Traffic Solution Efforts*, from the Consent Agenda.

Mayor Troxell closed the public hearings since both items requiring a public hearing were removed from the Consent Calendar.

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

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

1. **Consideration and Approval of the Minutes of the February 21, 2017 Regular Council Meeting and the February 28, 2017 Special Council Meeting. (Adopted)**

The purpose of this item is to approve the minutes from the February 21, 2017 Regular Council meeting and the February 28, 2017 Special Council meeting.

2. **Second Reading of Ordinance No. 029, 2017, Amending Chapter 15, Article XI of the Code of the City of Fort Collins Related to the Regulation and Licensure of Dealers in Secondhand Property. (Adopted)**

This Ordinance, unanimously adopted on First Reading on February 21, 2017, updates and revises Article XI of Chapter 15 of the Fort Collins City Code. Article XI addresses the regulation and licensure of dealers in secondhand property within the City of Fort Collins. The proposed changes will update the outdated provisions to comply with current state law, local practice and procedure, and fill in any gaps in the existing provisions. Such changes include modifying the definition of a secondhand dealer to include a person who buys secondhand property and eliminating the restriction on issuance or renewal of a license because of any felony by the licensee, to be consistent with state law.

Changes to this Ordinance were made between First and Second Reading to: (1) clarify the definition of secondhand property to exclude donated property, exclude cellular telephones passed between cellphone carriers and their customers, and to further clarify that secondhand property is property "previously owned and used by another person"; (2) place a limit of ten years on convictions in an applicant's criminal history for which they may be denied a Secondhand Dealer's License; and (3) clarify that dealers must have a separate license for each location at which they deal in secondhand property.

3. **Second Reading of Ordinance No. 040, 2017, Appropriating Unanticipated Grant Revenue From the North Front Range Metropolitan Planning Organization and the Colorado Department of Transportation in the Capital Projects Fund for the Horsetooth Road and College Avenue Intersection Improvements Project. (Adopted)**

This Ordinance, unanimously adopted on First Reading on March 21, 2017, appropriates funds for the design, right-of-way acquisition, and construction of the Horsetooth Road and College Avenue Intersection Improvements Project. The City was approved for two federally funded grants: (1) from the North Front Range Metropolitan Planning Organization category Surface Transportation Program, for operational and safety improvements; and (2) a Highway Safety Improvement Program grant awarded through the Colorado Department of Transportation. The grant applications were based on the addition of northbound and southbound dual left turn lanes. Single left turn lanes currently exist for northbound and southbound traffic. Additionally, the project may include right turn pockets, multi-modal improvements, median and landscaping improvements, and pavement improvements.

4. **Second Reading of Ordinance No. 042, 2017, Amending Chapter 26 of the Code of the City of Fort Collins to Clarify the Acceptance of Water Certificates Issued Pursuant to an Agreement Dated May 10, 1971, (Commonly Known as "Josh Ames Certificates") to Meet Raw Water Requirements. (Adopted)**

This Ordinance, unanimously adopted on First Reading on March 21, 2017, amends certain sections of Chapter 26 of the City Code to clarify how Josh Ames Certificates are used to meet the City Code raw water requirements for treated water service. These Code amendments address issues concerning water certificates the City issued under a May 10, 1971, agreement with The Josh Ames Ditch Company (Josh Ames Certificates), which have and will otherwise continue to raise disputes with the holders of such certificates.

The phrase "commonly known as Josh Ames Certificates" has been added to the title of the Ordinance for clarity and ease of future reference.

5. **Second Reading of Ordinance No. 047, 2017, Appropriating Funds Related to Additional 2017 Budget Transfers to Meet Fund Accounting Requirements. (Adopted)**

This Ordinance, unanimously adopted on First Reading on March 21, 2017, authorizes moving of funding from one fund to another. This action has no impact on service delivery of the programs and services funded in the 2017 Budget and there are no funding shortfalls. Rather, this appropriation moves funding from the fund where the Offer was funded to the fund where the actual expenses will occur.

6. **Second Reading of Ordinance No. 048, 2017, Appropriating Unanticipated Grant Revenue from the Colorado Off-System Bridge Program in the Capital Projects Fund for the Riverside Avenue Bridge Replacement Project. (Adopted)**

This Ordinance, unanimously adopted on First Reading on March 21, 2017, appropriates unanticipated grant funds in the Capital Projects Fund for the replacement of the Riverside Avenue Bridge because it is progressing towards deterioration and does not have the desired load carrying capacity.

7. **Second Reading of Ordinance No. 050, 2017, Amending Section 23-116 of the Code of the City of Fort Collins Regarding Permits and Licenses to Enter on Real Property. (Adopted)**

This Ordinance, unanimously adopted on First Reading on March 21, 2017, amends Section 23-116 of the City Code to authorize the City Manager to grant a permit or license for the use or occupation of any real property owned in the name of the City for a period of up to five years. The existing language in the City Code specifies that the City Manager may grant a permit or license for a period of up to one year.

8. **First Reading of Ordinance No. 054, 2017, Appropriating Prior Year Reserves in the General Fund for Waste Reduction and Diversion Projects Approved as Part of the Waste Innovation Program. (Adopted)**

The purpose of this item is to shift \$150,000 accumulated during 2016 in the Waste Innovation Fund account into the City's General Fund account for approved projects to develop new organizational processes that enable departments to divert more waste material from landfill disposal.

9. **First Reading of Ordinance No. 055, 2017, Appropriating Prior Year Reserves in the Storm Drainage Fund to Perform Stream Rehabilitation Improvements on McClellands Creek in Connection with the Twin Silo Park Development Project and Transferring Appropriations to the Cultural Services and Facilities Fund for the Art in Public Places Program (Adopted)**

The purpose of this item is to appropriate \$454,500 from prior year reserves in the Storm Drainage Fund to perform stream rehabilitation improvements on McClellands Creek and authorizing transfers to the Cultural Services Fund for the Art in Public Places (APP) program in connection with the Twin Silos Park project.

10. **First Reading of Ordinance No. 057, 2017, Adopting the Fort Collins Utilities Water and Wastewater Design Criteria Manual. (Adopted)**

The purpose of this item is to adopt a Water and Wastewater Criteria Manual that establishes minimum standards for designing public improvements within the Fort Collins Utilities (FCU) water and wastewater service areas.

● **END CONSENT**

● **COUNCILMEMBER REPORTS**

Councilmember Martinez reported on the It's On Us program at CSU and a community connectivity event at Shepardson Elementary. He supported addressing the smoking ban.

Councilmember Summers reported on a tour of the new Comcast service center.

Councilmember Stephens reported on the community connectivity event at Shepardson Elementary and noted the new Consul General of Japan has been welcomed to Fort Collins.

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

11. **Public Hearing and First Reading of Ordinance No. 056, 2017, Amending Chapter 9 of the Code of the City of Fort Collins and Adopting by Reference the 2015 International Fire Code, with Amendments. (Adopted)**

*The purpose of this item is to adopt the 2015 International Fire Code as amended. The International Code Council (ICC) publishes updated codes every three years. The Poudre Fire Authority Board of Directors has reviewed and approved this code package and is requesting the code be adopted as amended.*

*Poudre Fire Authority (PFA) is responsible for the enforcement and administration of the International Fire Code (IFC) within the City of Fort Collins. Every three years, the IFC is updated by the International Code Council (ICC) with the most recent update published in 2015. Poudre Fire Authority routinely reviews new codes, proposes local amendments and then seeks adoption of the code changes by the City Council. The proposed amendments, developed in conjunction with the local Fire Code Review Committee, include several changes to the local code. There were a few significant changes to the published code including provisions related to hyperbaric facilities, removal of abandoned wiring in plenums, protection of elevators for fire service access and occupant evacuation, carbon dioxide systems and multi-story tents/membrane structures and temporary stage canopies. Local amendments include new provisions limiting bon fire size, restricting solid fuel outdoor fireplaces and fire pits at commercial properties and clarifying language to provide consistency across PFA's jurisdiction as well as the long standing local provisions for fire sprinkler protection and egress.*

Mayor Troxell opened the public hearing for this item.

Councilmember Martinez asked how these changes will affect residential fire pits. Bob Poncelow, Poudre Fire Authority Fire Marshal, replied the restrictions for not using solid fuel appliances is only for commercial occupancies.

Councilmember Martinez asked if the required sprinkler systems will increase housing costs. Poncelow replied there are no significant changes to the existing sprinkler system requirements to sprinkler or compartmentalize buildings over 5,000 square feet. He noted the Fire Code does not apply to one and two-family buildings.

Councilmember Summers asked about the cost of water taps for fire suppression systems, particularly for the commercial application. Poncelow replied a commercial fire sprinkler system usually requires a large water tap; however, when the existing sprinkler requirements were put into place, it was decided the extra water tap cost should not be passed on to customers. There is no charge for water taps for fire suppression systems.

Councilmember Summers asked if there are any new local provisions for the Fire Code. Poncelow replied the sprinkler requirement has been in place since the 1980s and there have been some provisions added relating to limiting solid fuel burning appliances, addressing of apartment buildings, micro-distilleries, and carbon dioxide systems for beverage dispensing.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Overbeck, to adopt Ordinance No. 056, 2017, on First Reading.

Mayor Pro Tem Horak discussed residential fire pits related to air quality issues.

Councilmember Stephens thanked staff and the Fire Code Review Committee for their work on this item.

<b>RESULT:</b>	<b>ORDINANCE NO. 056, 2017 ADOPTED ON FIRST READING [UNANIMOUS].</b>
<b>MOVER:</b>	Gerry Horak, District 6
<b>SECONDER:</b>	Bob Overbeck, District 1
<b>AYES:</b>	Martinez, Stephens, Summers, Overbeck, Troxell, Cunniff, Horak

Mayor Troxell closed the public hearing.

● **DISCUSSION ITEMS**

12. **Second Reading of Ordinance No. 051, 2017, Appropriating Prior Year Reserves in the General Fund to Support the Idea 2 Product 3D Printing Community Center. (Adopted on Second Reading)**

*This Ordinance, adopted on First Reading on March 21, 2017 by a vote of 6-0 (Troxell recused), appropriates General Fund Reserves to support the relocation of the Idea 2 Product (I2P) laboratory and develop a 3D Printing Community Center. The City through the proposed appropriation will pledge \$150,000 to support the relocation and construction of the 3D Printing Community Center within the Fort Collins community. The funds will be pledged contingent upon the ability of I2P, the operator of the 3D Printing Community Center, to raise a total (including the City's pledge) of \$3.0 million from private sources, other communities, and grants. The pledge will terminate at the end of 2017 unless I2P has successfully raised funds and may be renewed at City Council's option in future years.*

Mayor Troxell withdrew from the discussion of this item due to a conflict of interest.

Eric Sutherland stated this type of appropriation is not consistent with the legislative intent of the voters of Fort Collins. He urged Council to oppose the item.

Councilmember Martinez requested input regarding Mr. Sutherland's comments. City Attorney Daggett replied she disagrees with Mr. Sutherland's interpretation and stated the Ordinance articulates specific public purposes the City is intending to accomplish through the use of these funds.

Councilmember Martinez made a motion, seconded by Councilmember Stephens, to adopt Ordinance No. 051, 2017, on Second Reading.

Councilmember Cunniff asked if there is a timing sensitivity regarding adopting this on Second Reading. Josh Birks, Economic Health and Redevelopment Director, replied the timing of the First Reading was important to give some preliminary indication to Idea 2 Product that the City was pledging funds to assist with its grant application. There is no urgent timing for the Second Reading other than to follow through with the pledge associated with the grant.

Councilmember Cunniff discussed the lower than expected sales tax revenue and stated he is inclined to delay Second Reading until May 2.

Councilmember Cunniff made a motion, seconded by Councilmember Overbeck, to postpone consideration of this item until the regular meeting of May 2.

Councilmember Summers supported the original motion.

Councilmember Stephens stated she would support postponing the item.

Mayor Pro Tem Horak stated he understands the idea behind postponing; however, the funding is contingent upon the receipt of the \$3 million grant.

The vote on the motion to postpone was as follows: Yeas: Cunniff, Overbeck and Stephens. Nays: Summers, Martinez and Horak.

**THE MOTION FAILED.**

Councilmember Cunniff stated he cannot support the appropriation at this point.

<b>RESULT:</b>	<b>ORDINANCE NO. 051, 2017, ADOPTED ON SECOND READING [4 TO 2]</b>
<b>MOVER:</b>	Ray Martinez, District 2
<b>SECONDER:</b>	Kristin Stephens, District 4
<b>AYES:</b>	Martinez, Stephens, Summers, Horak
<b>NAYS:</b>	Overbeck, Cunniff
<b>RECUSED:</b>	Troxell

**13. First Reading of Ordinance No. 058, 2017, Reappropriating Funds Previously Appropriated in 2016 But Not Expended and Not Encumbered in 2016. (Adopted on First Reading)**

City Council authorized expenditures in 2016 for various purposes. The authorized expenditures were not spent or could not be encumbered in 2016 because:



- there was not sufficient time to complete bidding in 2016 and therefore, there was no known vendor or binding contract as required to expend or encumber the monies
- the project for which the dollars were originally appropriated by Council could not be completed during 2016 and reappropriation of those dollars is necessary for completion of the project in 2017
- to carry on programs, services, and facility improvements in 2017 with unspent dollars previously appropriated in 2016.

In the above circumstances, the unexpended and/or unencumbered monies lapsed into individual fund balances at the end of 2016 and reflect no change in Council policies.

Monies reappropriated for each City fund by this Ordinance are as follows:

<b>Fund</b>	<b>2016 Amended Budget</b>	<b>Reappropriation Amount</b>	<b>% of 2016 Amended Budget</b>
General Fund	\$143,734,196	\$948,174	0.7%
Keep Fort Collins Great Fund	25,849,423	691,195	2.7%
Light and Power Fund	143,023,302	107,933	0.1%
Data and Communications Fund	11,544,230	301,600	2.6%
<b>TOTAL</b>	<b>\$324,151,151</b>	<b>\$2,048,902</b>	<b>0.6%</b>

Lawrence Pollack, Budget and Performance Measurement Manager, stated the reappropriation process allows the City to follow through on commitments it made to Council and the community in prior years. The requirements for reappropriation funds include specific intended purposes and use for those exact same purposes. He discussed the paired down amount requested due to the lower than expected sales tax revenues. Though the sales tax revenue is softer than budgeted, it is growing and there will be a better understanding of accurate numbers after the April returns.

Items under consideration for the reappropriation include affordable housing and home buyer assistance (which is part of the annual reappropriation due to the timing of the competitive process), electronic plan review, Lincoln Corridor neighborhood projects, EPIC entrance concrete work, median improvements, and broadband strategic planning efforts.

A contingency plan for the potential continued softening of sales tax revenue will go before the Finance Committee and the remaining \$850,000 will be discussed at that time.

Councilmember Summers asked about the total budget for 2017 for the broadband efforts. Pollack replied he was unsure of the total of the original 2016 offer; however, no new funds have been appropriated for 2017.

Mayor Pro Tem Horak asked what would be considered an accurate and precise predictor for sales and use tax. Pollack replied there are a number of factors, including monthly revenue collections and spending. Tiana Smith, Revenue and Project Manager, replied looking solely at quarter one sales tax revenues is not a good predictor; however, examining both quarter one and two together is a more accurate measure.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to adopt Ordinance No. 058, 2017; on First Reading.

Councilmember Overbeck asked if quarter one data has been correlated with interest rates or stock prices. Smith replied stock prices have not been considered; however, median income, cost of construction indices, and various inflation factors have been analyzed.

Councilmember Martinez asked if the quarter one sales tax slowdown is a consistent pattern. Smith replied in the negative.

Councilmember Cunniff noted there is a correlation between past years quarter one revenues and annual revenues. He commented on the desire of the Finance Committee to make adjustments to lessen the need for reappropriations.

<b>RESULT:</b>	<b>ORDINANCE NO. 058, 2017, ADOPTED ON FIRST READING [UNANIMOUS]</b>
<b>MOVER:</b>	Gerry Horak, District 6
<b>SECONDER:</b>	Ross Cunniff, District 5
<b>AYES:</b>	Martinez, Stephens, Summers, Overbeck; Troxell, Cunniff, Horak

**14. First Reading of Ordinance No. 059, 2017, Making Various Amendments to the Land Use Code. (Adopted on First Reading)**

*The purpose of this item is to adopt a variety of revisions, clarifications and additions to the Land Use Code that have been identified since the last update in December 2015.*

Ted Shepard, Chief Planner, stated a read-before memo has been provided to Council to explain an inadvertent situation regarding setbacks in the downtown area. Shepard discussed the proposed Land Use Code changes relating to redevelopment of recently annexed properties and community-based shelter services.

Eric Sutherland discussed criteria used by Council in a quasi-judicial proceeding involving land use and/or zoning. He stated the City lacks adequate ordinances to define the criteria used in such determinations. He opposed the softening of requirements for outdoor gathering spaces for multi-family dwellings.

Councilmember Cunniff asked about the Planning and Zoning Board split vote on the safe place to rest provisions and notification. Jackie Kozak-Thiel, Sustainability Director, replied the main discussion was around neighborhood notification and noted the community basis of this plan is designed to have minimal neighborhood impact.

Councilmember Cunniff requested the development of some type of notification process in the interest of transparency.

Councilmember Cunniff asked about the abandonment and change of use provisions. Cameron Gloss, Planning Manager, replied there are specific criteria within the Ordinance that identify those areas that would be prioritized and give the Director some discretion in waiving particular Land Use Code requirements. This would allow for incremental improvements.

Councilmember Cunniff requested information from staff research regarding other communities and requested follow-up regarding Mr. Sutherland's comments relating to quasi-judicial matters. City Attorney Daggett replied the Code contains information relating to quasi-judicial matters and the analysis of whether the proceedings are quasi-judicial are based on the legal principles that trigger those types of processes because of due process rights of interested stakeholders.

Councilmember Stephens asked for a comparison of the safe place to rest and Faith Family Hospitality. Kozak-Thiel replied the Faith Family Hospitality program rotates between churches. The safe place to rest pilot has involved three sites three nights a week.

Councilmember Stephens asked if there are any safety concerns. Kozak-Thiel replied site visits to shelter providers have occurred and no neighborhood complaints have been received to this point, given the transportation considerations.

Councilmember Overbeck asked how walk-ups would be addressed. Kozak-Thiel replied no walk-ups are allowed; users must first go to Catholic Charities for transportation and screening.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to adopt Ordinance No. 059, 2017, on First Reading.

Councilmember Stephens thanked Kozak-Thiel for her work and commended the facilities that are partnering in this effort.

City Attorney Daggett offered an amendment that follows the suggestion staff has made related to main street storefront buildings in the downtown area. Mayor Pro Tem Horak and Councilmember Cunniff accepted the amended language as part of their motion.

Mayor Pro Tem Horak discussed notification requirements. Kozak-Thiel stated an appropriate notification for this flexible community-based model would be an annual meeting to talk about all the potential sites and the placement of an individual call number.

<b>RESULT:</b>	<b>ORDINANCE NO. 059, 2017, ADOPTED AS AMENDED ON FIRST READING [UNANIMOUS]</b>
<b>MOVER:</b>	Gerry Horak, District 6
<b>SECONDER:</b>	Ross Cunniff, District 5
<b>AYES:</b>	Martinez, Stephens, Summers, Overbeck, Troxell, Cunniff, Horak

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

**15. Items Relating to the Sales Tax Code. (Adopted on First Reading)**

- A. *First Reading of Ordinance No. 060, 2017, Amending Article II of Chapter 25 and Division 2 in Article IX of Chapter 26 of the Code of the City of Fort Collins Concerning the City's Tax and Utility Refund Programs.*
- B. *First Reading of Ordinance No. 061, 2017, Amending Article III of Chapter 25 of the Code of the City of Fort Collins Concerning the Imposition, Collection, and Enforcement of the City's Sale and Use Taxes.*
- C. *First Reading of Ordinance No. 062, 2017, Amending Article IV of Chapter 25 of the Code of the City of Fort Collins Concerning the City's Lodging Tax.*

*The purpose of this item is to amend Code Chapter 25 to update definitions and align for consistency the sales and use tax and lodging tax provisions related to the collection and enforcement of these taxes. It also makes various amendments to the City Code provisions providing for the City's tax and utility rebate programs established in Code Chapters 25 and 26 (City Rebate Programs). The philosophy of the Sales Tax department is to be business friendly in its operations and to ensure that the processes in place are user-friendly and that taxpayers can remit taxes with ease. For the*

administration of the City Rebate Programs, the intention is to help as many qualified, low-income, disabled and senior individuals in the community as possible. In order to deliver on both of these objectives, the Sales Tax Department is recommending the following changes to City Code:

- Update definitions to allow more flexibility in the administration of the City Rebate Program resulting in the ability to help more income-qualified individuals
- Adopt definitions recommended by the Colorado Municipal League
- Align threshold amounts that set taxpayer filing frequency to align with the State of Colorado
- Revise the collection and enforcement provisions in the Sales and Use Tax Code to conform to the Sales Tax Department's current practices and to add these collection and enforcement provisions to the Lodging Tax Code for consistency.

Tiana Smith, Revenue and Project Manager, stated this item updates definitions, removes barriers in qualifying income-qualified individuals for the City rebate program, and ensures consistent language between the Sales Tax Code, Use Tax Code, and Lodging Tax Code.

Eric Sutherland stated the change in definition of a disabled person is inconsistent with what is rational and prudent in this circumstance. The City Tax Code has always had a deficiency associated with the authority the City was claiming to direct district court how to proceed with execution for enforcing the Tax Code.

Councilmember Stephens asked about the disability definition. Smith clarified the definition includes the requirement for a diagnosis certification by Foothills Gateway.

Councilmember Stephens asked if non-taxable income includes child support. John Duvall, Deputy City Attorney, replied the Ordinance lists non-taxable income under federal law; however, non-taxable income must also be identified.

Councilmember Cunniff asked what is achieved by the redefinition of a disabled person. Smith replied the Ordinance would allow families with adult disabled children living with them to qualify for rebates. The application allows for self-certification of a disability.

Councilmember Cunniff requested an update for Second Reading regarding the disability certification.

Councilmember Overbeck asked why this issue was not taken to the Commission on Disability. Smith stated that could be done prior to Second Reading.

Councilmember Summers supported the new disability definition.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Overbeck, to adopt Ordinance No. 060, 2017, on First Reading.

Councilmembers Cunniff and Stephens stated they would support the motion but would like to see clarifying language related to the disability definition on Second Reading.

<b>RESULT:</b>	<b>ORDINANCE NO. 060, 2017 ADOPTED ON FIRST READING [UNANIMOUS]</b>
<b>MOVER:</b>	Gerry Horak, District 6
<b>SECONDER:</b>	Bob Overbeck, District 1
<b>AYES:</b>	Martinez, Stephens, Summers, Overbeck, Troxell, Cunniff, Horak

Mayor Pro Tem Horak made a motion, seconded by Councilmember Overbeck, to adopt Ordinance No. 061, 2017, on First Reading.

<b>RESULT:</b>	<b>ORDINANCE NO. 061, 2017 ADOPTED ON FIRST READING [UNANIMOUS]</b>
<b>MOVER:</b>	Gerry Horak, District 6
<b>SECONDER:</b>	Bob Overbeck, District 1
<b>AYES:</b>	Martinez, Stephens, Summers, Overbeck, Troxell, Cunniff, Horak

Mayor Pro Tem Horak made a motion, seconded by Councilmember Overbeck, to adopt Ordinance No. 062, 2017, on First Reading.

<b>RESULT:</b>	<b>ORDINANCE NO. 062, 2017, ADOPTED ON FIRST READING [UNANIMOUS]</b>
<b>MOVER:</b>	Gerry Horak, District 6
<b>SECONDER:</b>	Bob Overbeck, District 1
<b>AYES:</b>	Martinez, Stephens, Summers, Overbeck, Troxell, Cunniff, Horak

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

17. **Second Reading of Ordinance No. 039, 2017, Appropriating Prior Year Reserves in the Transportation Fund for Regional Contribution to Larimer County for North I-25 Improvements. (Adopted)**

*This Ordinance, unanimously adopted on First Reading on March 28, 2017, appropriates Transportation Reserve funds in the amount of \$445,947, to be remitted to Larimer County as part of an annual regional contribution of local matching funds for the Colorado Department of Transportation's (CDOT) North I-25 Improvements Project. With Resolution 2016-077, adopted on October 4, 2016, Council authorized the Mayor to enter into an intergovernmental agreement (IGA) with Larimer County and participating local agencies, including the City, to contribute local matching funds for this purpose. This is the first of five annual installments of these payments to Larimer County under the IGA. Local matching fund commitments accelerate the improvements to I-25 in Northern Colorado.*

Eric Sutherland stated neighboring communities are not spending enough money on I-25 improvements but are subsidizing retail development. This appropriation is unlawful.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Overbeck, to adopt Ordinance No. 039, 2017, on Second Reading.

Mayor Pro Tem Horak stated the I-25 improvements are moving forward because of the coalition of willing parties.

<b>RESULT:</b>	<b>ORDINANCE NO. 039, 2017 ADOPTED ON SECOND READING [UNANIMOUS]</b>
<b>MOVER:</b>	Gerry Horak, District 6
<b>SECONDER:</b>	Bob Overbeck, District 1
<b>AYES:</b>	Martinez, Stephens, Summers, Overbeck, Troxell, Cunniff, Horak

18. **Public Hearing and Second Reading of Ordinance No. 052, 2017, Amending Chapter 19 of the Code of the City of Fort Collins to Adopt the Colorado Rules of Civil Procedure to Govern the Procedures for Civil Actions Filed in Municipal Court and to Add City Code Section 1-24 to Clarify that Civil Actions Arising Under the City's Ordinances are not Intended to Create by Implication Claims for Monetary Damages for the Benefit of Third Parties. (Adopted)**

*This Ordinance, unanimously adopted on First Reading on March 28, 2017, adopts for Municipal Court the Colorado Rules of Civil Procedure to be used to govern the procedures for civil actions filed in Municipal Court that do not arise from violations of the City Charter or Code.*

*Three recitals have been added to this Ordinance between First and Second Reading to reflect the publication of the notice of public hearing required in Article II, Section 7 of the City Charter. Such publication is required when a code of laws, like the Colorado Rules of Civil Procedure, is being adopted by reference into the City Code. The published Notice of Public Hearing has also been attached as Exhibit "A" to the Ordinance.*

*Sections 3 and 4 of the Ordinance have also been amended to clarify that the Municipal Court civil actions to which the Colorado Rules of Civil Procedure will be applicable will not include any actions for violations, offenses or infractions of City ordinances. The Ordinance already provides that these new procedural rules are not applicable to actions for violations, offenses and infractions under the City Charter and Code.*

Mayor Troxell opened the public hearing for this item.

Eric Sutherland commented on Judge Lane's comments regarding the First Reading of the Ordinance and opposed the operation of the Municipal Court.

Mayor Troxell closed the public hearing.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Overbeck, to adopt Ordinance No. 052, 2017, on Second Reading.

<b>RESULT:</b>	<b>ORDINANCE NO. 052, 2017, ADOPTED ON SECOND READING [UNANIMOUS]</b>
<b>MOVER:</b>	Gerry Horak, District 6
<b>SECONDER:</b>	Bob Overbeck, District 1
<b>AYES:</b>	Martinez, Stephens, Summers, Overbeck, Troxell, Cunniff, Horak

19. **First Reading of Ordinance No. 053, 2017, 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 renew a one-year contract with a lobbying and communications firm (Capitol Solutions) to advocate for solutions to Interstate 25 traffic congestion and to appropriate \$30,000 from the Transportation Fund reserves to pay for these services. City leaders are working in partnership with regional partners to identify and pursue funding for the I-25 corridor in Northern Colorado. Numerous regional 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) and find long-term sustainable funding for the State's transportation infrastructure needs. This \$30,000 appropriation for services will continue to 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 priority re: I-25 funding.*

Eric Sutherland stated interstate congestion will not be solved with more pavement. He opposed subsidizing retail development.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Overbeck, to adopt Ordinance No. 053, 2017, on First Reading.

Mayor Pro Tem Horak stated this project has a managed lane which gives people a predictable trip and completes bridge and trail work.

Mayor Troxell discussed communications among neighboring communities.

<b>RESULT:</b>	<b>ORDINANCE NO. 053, 2017, ADOPTED ON FIRST READING [UNANIMOUS]</b>
<b>MOVER:</b>	Gerry Horak, District 6
<b>SECONDER:</b>	Bob Overbeck, District 1
<b>AYES:</b>	Martinez, Stephens, Summers, Overbeck, Troxell, Cunniff, Horak

● **OTHER BUSINESS**

Councilmember Martinez requested information regarding a sidewalk passageway for disabled residents near a development on Harmony Road. Laurie Kadrich, Planning, Development and Transportation Director, replied adequate pedestrian facilities are required during construction; and will review the specifics for this project..

Mayor Pro Tem Horak stated interviews for the Boxelder appointment have occurred and a Resolution can be brought forward for the appointment.

Councilmember Martinez reported the DDA 2016 year-in-review report is now available.

**Consideration of a motion to postpone First Reading of Ordinance No. 049, 2017, Amending Chapter 7.5 and 8 of the Code of the City of Fort Collins for Phased Increases of the Capital Expansion Fees to May 16, 2017**

*This item was considered on First Reading on March 21, 2017, when Council decided to postpone further discussion until May 2. Staff has requested consideration of this item be postponed to May 16.*

Mayor Pro Tem Horak made a motion, seconded by Councilmember Martinez, to postpone consideration of the item to May 16.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Gerry Horak, District 6
<b>SECONDER:</b>	Ray Martinez, District 2
<b>AYES:</b>	Martinez, Stephens, Summers, Overbeck, Troxell, Cunniff, Horak

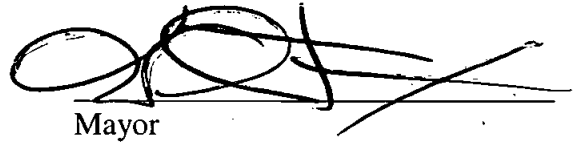
● **ADJOURNMENT**

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to adjourn to 6:00 PM on Tuesday, April 25, 2017, to consider such matters as may come before the Council.


<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Gerry Horak, District 6
<b>SECONDER:</b>	Ross Cunniff, District 5
<b>AYES:</b>	Martinez, Stephens, Summers, Overbeck, Troxell, Cunniff, Horak

The meeting adjourned at 9:21 PM.



  
Mayor

ATTEST:

  
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City Clerk