

December 19, 2017

COUNCIL OF THE CITY OF FORT COLLINS, COLORADO

Council-Manager Form of Government

Regular Meeting – 6:00 PM

● **ROLL CALL**

PRESENT: Martinez, Stephens, Overbeck, Troxell, Cunniff, Horak
ABSENT: Summers
Staff Present: Atteberry, Daggett, Coldiron

● **AGENDA REVIEW: CITY MANAGER**

City Manager Atteberry recommended Item No. 19, *Resolution 2017-113 Approving a Collective Bargaining Agreement with Northern Colorado Lodge #3 of the Fraternal Order of Police*, be pulled given the significant number of changes that have occurred.

Councilmember Martinez withdrew Item No. 19, *Resolution 2017-113 Approving a Collective Bargaining Agreement with Northern Colorado Lodge #3 of the Fraternal Order of Police*, from the Consent Agenda.

● **CITIZEN PARTICIPATION**

Elizabeth Hudetz discussed the survey she recently completed regarding plugged and abandoned wells. She cited a study which showed negative health impacts for individuals living within a 10-mile radius of fracking wells.

Brett Bovee, Water Board Chair, stated the Board is dedicating a set of work sessions to topics that represent water issues facing the City. Topics include NISP and the future of irrigations canals and ditches within the GMA.

Robert Bradley discussed the lack of bicycle regulation and patrol and issues with buses.

Collin Garfield, Fort Collins Citizens Broadband Committee, discussed the repealing of net neutrality.

Thomas Edwards discussed the new electric rates and stated his home is all electric.

William Montgomery played a recording related to the 2015 Occupy Jefferson movement and stated police officers are systematically lying.

● **CITIZEN PARTICIPATION FOLLOW-UP**

Mayor Troxell summarized the citizen comments.

Councilmember Overbeck requested staff feedback regarding Ms. Hudetz' comments and asked if there will be collaboration with the Natural Resources Advisory Board relating to the Water Board memo.

Councilmember Martinez requested staff follow-up regarding Mr. Bradley's comments and requested staff contact Mr. Edwards regarding his concerns.

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Mayor Pro Tem Horak made a motion, seconded by Councilmember Overbeck, to adopt and approve all items not withdrawn from the Consent Agenda.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Gerry Horak, District 6
SECONDER:	Bob Overbeck, District 1
AYES:	Martinez, Summers, Overbeck, Troxell, Cunniff, Horak
ABSENT:	Stephens

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

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

2. **Second Reading of Ordinance No. 166, 2017, Appropriating Prior Year Reserves in the General Fund to Reimburse Woodward, Inc. for Development Fees and Use Tax. (Adopted)**

This Ordinance, unanimously adopted on First Reading on December 5, 2017, appropriates \$42,614 of prior year reserves for a rebate to Woodward, Inc. for use tax under an agreement that City Council approved on April 2, 2013 (Ordinance No. 055, 2013). The agreement provides business investment assistance for the relocation of Woodward's headquarters, as well as an expansion of its manufacturing and office facilities to a new location at the corner of Lincoln Avenue and Lemay Avenue. The project will retain or create between 1,400 and 1,700 primary jobs in the City.

The Ordinance has been revised between First and Second Reading to add a new recital. The new recital has been added to further clarify the Council's findings for the public purposes of this appropriation.

3. **Second Reading of Ordinance No. 167, 2017, Amending Section 2-568(c)(2) of the Code of the City of Fort Collins Pertaining to Rules of Conduct Applicable to Councilmember Conduct. (Adopted)**

This Ordinance, unanimously adopted on First Reading on December 5, 2017, amends Section 2-568(c)(2) of the City Code to add clarifying language that limits Councilmember interaction with City officers and employees regarding matters for which a conflict of interest has been declared.

4. **Second Reading of Ordinance No. 168, 2017, Amending Chapter 26, Articles VI and VII of the Code of the City of Fort Collins to Correct Errors in How Certain Utility Fees Formulae are Expressed Related to Electric Utility Development Fees and Single-Family Residential Stormwater Utility Fees. (Adopted)**

This Ordinance, unanimously adopted on First Reading on December 5, 2017, corrects two formulas relating to development charges and monthly fees for the Light and Power and Stormwater utilities. The first correction fixes an omission in the calculation of kilo-watt demand for electric capacity charges. The second correction fixes a typo in a formula used to calculate single family residential monthly stormwater fees. These changes make City Code consistent with the original intent of the formulas and reflect how the fees have been calculated and billed since their adoption.

5. **Second Reading of Ordinance No. 169, 2017, Authorizing the Use of the Non-Development Lease with the Colorado State Board of Land Commissioners as Match for a Neotropical Migratory Bird Conservation Act Grant Administered by the U.S. Fish and Wildlife Service. (Adopted)**

This Ordinance, unanimously adopted on First Reading on December 5, 2017, places a Notice of Grant Agreement on the 3,873 acres of land within Soapstone Prairie Natural Area subject to a Non-Development Lease with the Colorado State Board of Land Commissioners. The grant will expand upon Bird Conservancy of the Rocky's (BCR) research and monitoring work on Soapstone Prairie and Meadow Springs Ranch to implement conservation strategies and management for 19 high priority grassland birds that breed within the Laramie Foothills Mountains to Plains Project and 28 high priority species at wintering sites in the Chihuahua Desert of Mexico.

6. **Second Reading of Ordinance No. 170, 2017, Authorizing the Use of the Evans Tract as Match for a Neotropical Migratory Bird Conservation Act Grant Administered by the U.S. Fish and Wildlife Service. (Adopted)**

This Ordinance, unanimously adopted on First Reading on December 5, 2017, places a Notice of Grant Agreement on the 240-acre Evans Tract purchased in 2015 as part of Soapstone Prairie Natural Area. The grant will expand upon Bird Conservancy of the Rocky's (BCR) research and monitoring work on Soapstone Prairie and Meadow Springs Ranch to implement conservation strategies and management for 19 high priority grassland birds that breed within the Laramie Foothills Mountains to Plains Project and 28 high priority species at wintering sites in the Chihuahua Desert of Mexico.

7. **Second Reading of Ordinance No. 171, 2017, Amending Chapter 1 and Other Related Provisions of the Code of the City of Fort Collins to Create a Petty Offense Classification and Penalties for Petty Offense Violations. (Adopted)**

This Ordinance, unanimously adopted on First Reading on December 5, 2017, creates a petty offense category within the City Code and classifies a violation of the City's smoking ordinance as a petty offense. Some errors were discovered in the First Reading Agenda Item Summary and an amended version has been provided as part of the agenda materials.

8. **Second Reading of Ordinance No. 172, 2017, Amending Article III of Chapter 12 of the Code of the City of Fort Collins Regarding Smoking in Public Areas. (Adopted)**

This Ordinance, unanimously adopted on First Reading on December 5, 2017, amends the downtown smoking ordinance to designate a violation of the ordinance as a petty offense and to clarify that the Downtown Smoke-Free Zone does not apply to any person smoking in a privately-owned residence; entirely within an enclosed privately-owned motor vehicle, or in a retail tobacco business.

9. **Items Relating to the Fort Collins Traffic Code. (Adopted)**

- A. First Reading of Ordinance No. 173, 2017, Amending Various Sections of the Fort Collins Traffic Code.
- B. First Reading of Ordinance No. 174, 2017, Amending Various Sections of Part 21 of the Fort Collins Traffic Code Regulating Bicycles.

The purpose of this item is to ensure that the Fort Collins Traffic Code (the Traffic Code) is consistent with Colorado traffic laws.

10. **First Reading of Ordinance No. 175, 2017, Deleting Chapter 12, Article VIII from the Code of the City of Fort Collins Regarding Hydraulic Fracturing. (Adopted)**

The purpose of this item is to remove references to a prohibition on oil and gas related activities from Chapter 12, Article VIII of the City Code. This is an administrative clean-up item reflecting the 2016

Colorado Supreme Court decision that struck down the City's hydraulic fracturing moratorium because state law preempted it.

11. **First Reading of Ordinance No. 176, 2018, Declaring Certain City-Owned Property Consisting of a Portion of Tract A, Prospect Industrial Park Currently Owned by the City of Fort Collins Utilities' Wastewater Utility Enterprise as Road Right-of-Way for the Proposed Sharp Point Drive Extension. (Adopted)**

The purpose of this item is to declare approximately 1.4 acres of Tract A owned by the City Utilities' Wastewater Utility Enterprise as right-of-way for the construction of Sharp Point Drive between Nancy Gray Avenue and Midpoint Drive. Tract A is a 1.9-acre parcel which was originally platted as a public access and loading easement in the 1970s as part of the Prospect Industrial Park. The Sharp Point Drive connection was shown on the City's Master Street Plan in 1998. The platted easement merged into fee property upon acquisition by the Wastewater Utility Enterprise in 2002.

12. **First Reading of Ordinance No. 177, 2017 Amending the Zoning Map of the City of Fort Collins by Changing the Zoning Classification for That Certain Property Known as Spring Creek Rezoning REZ1170001. (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(d) of the Council's Rules of Meeting Procedures adopted in Resolution 2017-017.

The purpose of this item is to amend the City's Zoning Map to adjust the location, size and boundary between two zone districts within a 19.55 parcel located at the southeast corner of South Shields Street and Hobbit Street. The result of the shift is that the Neighborhood Commercial (N-C) zone is shifted south and reduced by 2.88 acres while the Medium Density Mixed-Use Neighborhood (M-M-N) zone is shifted north and gains a corresponding amount of land area. As proposed, the N-C zone would be reduced to 6.42 acres and the M-M-N zone would be enlarged to 13.13 acres.

This rezoning of less than 640 acres is subject to the criteria included in Section 2.9.4 of the Land Use Code and subject to certain conditions in Section 2.9.4(H). Such a zoning may be approved, approved with conditions, or denied by Council after receiving a recommendation from the Planning and Zoning Board, which voted (6-0) to recommend the rezoning with six conditions. The six conditions have been agreed upon by the applicant and neighbors from the surrounding residential neighborhood (including the Sheeley and Wallenberg neighborhoods), as well as consultation with staff.

13. **Resolution 2017-107 Finding Substantial Compliance and Initiating Annexation Proceedings for the Water Treatment Facility Annexation No. 1. (Adopted)**

The purpose of this item is to initiate annexation proceedings for the Water Treatment Facility Annexation No. 1. This is a voluntary annexation. The City of Fort Collins is the applicant and has submitted a written petition requesting four sequential annexations. Water Treatment Facility Annexation No. 1 is the first Resolution of this series of four sequential annexations, and totals 0.101 acres of Laporte Avenue which establishes 1/6 perimeter boundary contiguity with the existing municipal boundaries to the east.

The Water Treatment Facility Annexations form a flagpole-shaped annexation starting slightly east of the intersection of Sunset Street and Laporte Avenue and ending at 4316 Laporte Avenue. A City water treatment facility is located at 4316 LaPorte Avenue. The requested zoning for this series of annexations is Urban Estate (UE) and Residential Foothills (RF) which is in compliance with the City of Fort Collins Structure Plan and the Northwest Subarea Plan. Notice to parcels abutting platted streets was provided pursuant to §31-12-105, C.R.S.

14. **Resolution 2017-108 Finding Substantial Compliance and Initiating Annexation Proceedings for the Water Treatment Facility Annexation No. 2. (Adopted)**

The purpose of this item is to initiate annexation proceedings for the Water Treatment Facility Annexation No. 2. This is a voluntary annexation. The City of Fort Collins is the applicant and has submitted a written petition requesting four sequential annexations. Water Treatment Facility Annexation No. 2 is the second Resolution of this series of four sequential annexations, and totals 0.380 acres of Laporte Avenue which establishes 1/6 perimeter boundary contiguity with the Water Treatment Facility Annexation No. 1.

The Water Treatment Facility Annexations form a flagpole-shaped annexation starting slightly east of the intersection of Sunset Street and Laporte Avenue and ending at 4316 Laporte Avenue. A City water treatment facility is located at 4316 Laporte Avenue. The requested zoning for this series of annexations is Urban Estate (UE) and Residential Foothills (RF) which is in compliance with the City of Fort Collins Structure Plan and the Northwest Subarea Plan. Notice to parcels abutting platted streets was provided pursuant to §31-12-105, C.R.S.

15. **Resolution 2017-109 Finding Substantial Compliance and Initiating Annexation Proceedings for the Water Treatment Facility Annexation No. 3. (Adopted)**

The purpose of this item is to initiate annexation proceedings for the Water Treatment Facility Annexation No. 3. This is a voluntary annexation. The City of Fort Collins is the applicant and has submitted a written petition requesting four sequential annexations. Water Treatment Facility Annexation No. 3 is the third Resolution of this series of four sequential annexations, and totals 1.182 acres of Laporte Avenue which establishes 1/6 perimeter boundary contiguity with the Water Treatment Facility Annexation No. 2.

The Water Treatment Facility Annexations forming a flagpole-shaped annexation starting slightly east of the intersection of Sunset Street and Laporte Avenue and ends at 4316 Laporte Avenue. A City water treatment facility is located at 4316 Laporte Avenue. The requested zoning for this series of annexations is Urban Estate (UE) and Residential Foothills (RF) which is in compliance with the City of Fort Collins Structure Plan and the Northwest Subarea Plan. Notice to parcels abutting platted streets was provided pursuant to §31-12-105, C.R.S.

16. **Resolution 2017-110 Finding Substantial Compliance and Initiating Annexation Proceedings for the Water Treatment Facility Annexation No. 4. (Adopted)**

The purpose of this item is to initiate annexation proceedings for the Water Treatment Facility Annexation No. 4. This is a voluntary annexation. The City of Fort Collins is the applicant and has submitted a written petition requesting four sequential annexations. Water Treatment Facility Annexation No. 4 is the fourth and final Resolution of this series of sequential annexations, and totals 102.825 acres which establishes 1/6 perimeter boundary contiguity with the Water Treatment Facility Annexation No. 3. Unlike Water Treatment Facility Annexations No. 1, 2 and 3, the No.4 annexation lies in large part outside the boundary of the Growth Management Area.

The Water Treatment Facility Annexations forming a flagpole-shaped annexation starting at the intersection of Sunset Street and Laporte Avenue and ends at 4316 Laporte Avenue. A City water treatment facility is located at 4316 Laporte Avenue. The requested zoning for this series of annexations is Urban Estate (UE) and Residential Foothills (RF) which is in compliance with the Fort Collins City Plan Structure Plan Map and the Northwest Subarea Plan designations. Notice to parcels abutting platted streets was provided pursuant to §31-12-105, C.R.S.

17. **Resolution 2017-111 Authorizing the Execution of an Intergovernmental Agreement Between the City and the Colorado Department of Transportation for the Maintenance of Traffic Signals, Signs, and Markings Within the Fort Collins Growth Management Area. (Adopted)**

The purpose of this item is to approve an intergovernmental agreement between the City and Colorado Department of Transportation (CDOT) for the City to maintain traffic control devices (signals, signs, and markings) on state highways within the City's Growth Management Area. Historically, these IGAs have been for 5-year terms; however, the current IGA expired in June 2017 and City has still been performing the maintenance services. CDOT is working on an updated long-term IGA, but it will not be ready until next year. This IGA, set to expire in June 2018, covers the interim period and allows City to be reimbursed for maintaining traffic control devices during CDOT's 2018 fiscal year in the amount of \$235,920. This IGA reflects updated costs from the previous agreement.

18. **Resolution 2017-112 Adopting the 2017 Update to the Three-Mile Plan for the City of Fort Collins. (Adopted)**

The purpose of this item is to adopt the 2017 update to the Three-Mile Plan for the City of Fort Collins. This Plan is a policy document for the coordination and provision of services for potential annexations. The Plan describes the general location, character, utilities, and infrastructure for areas within three miles of the municipal boundary. Annual updates of the Three-Mile Plan are required by state statutes.

19. **Resolution 2017-114 Naming the Lounge at the Fort Collins Senior Center after Former Mayor and Councilmember Ann Azari. (Adopted)**

The purpose of this item is to name the lounge at the Senior Center the "Ann Azari Lounge" in honor of former mayor Ann Azari. Ann was a devoted public servant in the Fort Collins community who served ten years on City Council and as Mayor.

20. **Resolution 2017-115 Making Appointments to Various Boards, Commissions, and Authorities of the City of Fort Collins. (Adopted)**

The purpose of this item is to appoint individuals to fill vacancies that currently exist on various boards, commissions, and authorities due to resignations of board members and vacancies to be created upon the expiration of terms of current members. Applications were solicited during September, October, and November. Council teams interviewed applicants during November and December. This Resolution appoints individuals to fill current vacancies and expiring terms.

This Resolution does not fill all vacancies. Interviews are continuing, and any remaining vacancies will be advertised as needed.

● **END CONSENT**

● **CONSENT CALENDAR FOLLOW-UP**

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

● **COUNCILMEMBER REPORTS**

Councilmember Overbeck reported on attending a memorandum of understanding workshop dealing with oil and gas and on attending the Nutcracker ballet.

Councilmember Stephens reported on the lighting of the menorah in Old Town.

Mayor Troxell discussed the proclamation honoring former Mayor Ann Azari.

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

21. **Resolution 2017-113 Approving a Collective Bargaining Agreement with Northern Colorado Lodge #3 of the Fraternal Order of Police. (Postponed Indefinitely)**

The purpose of this item is to approve a collective bargaining agreement between the City and the Northern Colorado Lodge #3, Colorado Fraternal Order of Police (FOP) and authorize execution of such agreement. The City and the FOP, using an Interest Based Bargaining (IBB) approach, engaged in negotiations regarding the terms and conditions of possible bargaining agreement for 2018 and 2019. In lieu of reaching tentative agreement, the FOP agreed to present the City's final and best offer to their membership for vote on December 14, 2017. If the agreement is not ratified by their membership, this item will be withdrawn from City Council consideration.

City Manager Atteberry stated the City continues to be committed to the following priorities: fostering and preserving public trust and ensuring community safety, consistency and equity of policies and benefits as compared to other City employees while recognizing the unique characteristics of police work, maintaining market competitiveness with other front range policing agencies, preserving the authority of the City Council to make final decisions on contract terms, and providing good stewardship of community resources.

Kelly DiMartino, Assistant City Manager, provided an overview of the negotiation process to this point and stated the City approaches bargaining from an interest-based process. In November, the Fraternal Order of Police (FOP) claimed the negotiations were at an impasse and opted not to ratify the agreement put forth by the City at that time. The three main topics discussed were: retirement, retiree health, and compensation.

DiMartino outlined the 12 jurisdictions mutually agreed upon to represent benchmark comparisons. Using that data, the City perspective is that it is at market level for compensation and retirement benefits and is below market for retiree health; therefore, the City felt that was the main area of focus. She noted some of the benchmark cities with higher retiree health benefits also have lower compensation.

DiMartino outlined the proposal requested by the FOP for a defined health benefit and stated the long-term liability makes that proposal one that the City cannot consider. Ten of the 12 benchmark cities do offer some type of retiree health coverage; Fort Collins discontinued this practice in 2010 given the long-term liability for the City. The City's alternate proposal is to make an increased contribution to a retirement health savings account and add a one-time stipend, which would decrease as time goes on given the retirement HSA contributions would increase.

DiMartino discussed the differences in retirement contributions between bargaining unit members and other City employees, noting other City employees pay into Social Security, unlike bargaining unit members. In terms of compensation, bargaining unit members receive an annual increase based on the benchmark cities. A request for conflict resolution came forth from the FOP in November. In 2005, a court order stated all powers of the City and the determination of policy matters are vested in the City Council, per City Charter.

DiMartino stated the two entities have a joint interest in ensuring this agency continues to be attractive for hiring, retaining, and developing a high-performing workforce. She presented data related to application and retention numbers. The City sent a one-year proposed contract with the provision that issues will continue to be explored. That offer was declined, and the FOP returned

stating two of the following three things needed to happen before a proposal would be taken back: either a conflict resolution plan, allowing retirees to stay on City insurance, or increasing contributions to 401/457 plans to 13% over 11.5%. The City stated it could not make movement on any of those issues without input from Council. Should an agreement not be reached, a contract will not be in place as of January 1; however, employees and bargaining members cannot withhold work without a contract. Staff is recommending the City voluntarily extend the terms for current retirement and health benefits and provide the 2018 compensation increases under the existing formula if an agreement is not reached.

Chris Renn, FOP Vice President, stated this is an unfortunate situation and discussed the benchmark statistics. He stated Fort Collins is below other benchmark cities when a defined benefit is taken out of the equation.

Mike Crossland discussed the lack of Social Security benefits for bargaining unit members and stated that income is guaranteed for other City employees. He stated a pension plan is a reasonable request and the City will not discuss the option.

Alan Heaton discussed the challenges and dangers of police work and stated officers are highly trained, well-equipped, professional, and are tasked with the difficult job of protecting citizens.

Ken Robinson stated he has been a member of the FOP for 20 years and compensation packages for Fort Collins have decreased compared to the benchmark cities throughout that time. He discussed retirement costs and stated income and benefits have not kept up with increased costs of living.

Gil Crohn stated he is a recently retired officer and discussed the challenges and dangers of police work.

Carly Garner thanked staff for meeting with FOP members and stated the decreasing ability to attract quality police applicants weakens the ability of the department to serve the community. She stated the lack of movement in negotiations has been frustrating and she does not agree the information has been appropriately interpreted. She also expressed frustration with the willingness of only one Councilmember to meet with FOP members.

Rob Knabb discussed the challenges and dangers of police work and stated he is disappointed with the City's leadership. He questioned why only two Councilmember responded to an email from the FOP.

Austin Vigil discussed the challenges and dangers of police work and stated the life expectancy of male police officers is 10 years lower than males in other occupations. He stated officers are willing to die to protect citizens and they are asking to be treated fairly.

Thomas Cohen discussed the importance of retiree health benefits and noted 10 of the 12 benchmark cities provide those benefits. He stated the stipend does not make health insurance affordable and officers need the ability to purchase coverage from the City after retirement.

Dawn Johnson stated her husband, a police officer, died when he was 63 and discussed the challenges and dangers of police work. She stated officers should be able to retire when they are physically ready rather than having to keep working to pay for insurance.

Mike Langley stated police service in Fort Collins is well above average, nationally and on the front range. He stated fair compensation is needed if Fort Collins wants to attract world class officers and requested the inclusion of retiree health care.

Heather West stated she is a former police officer and discussed her husband's decision to keep working for the City in order to keep benefits. She stated compensation and benefits for officers should be above average and officers should be able to retire when they need to.

Melissa Vigil discussed the possibility of an older officer having to respond to certain situations and stated the City should uphold its promise to be a good steward of its resources, officers included.

Rob Pride, Colorado Lodge Fraternal Order of Police President and Loveland officer, stated Loveland passed a compensation and retirement package much greater than has been shared with Council. Tenured officers are seeking out positions in Loveland because of their retirement package.

Spence Alford stated he is over 55 and is still employed as an officer. He discussed the challenges and dangers of police work and questioned how these issues can be resolved when agreement cannot be reached. He suggested conflict resolution should be an option.

Mayor Troxell thanked the speakers for their personal stories and for their commitment to and sacrifice for the community.

Councilmember Cunniff thanked the speakers for their service and sacrifice and stated Council must arrive at a compensation package which is fair for both police and citizens. He expressed concern about exposing the City to the liability of a defined benefit package, particularly given those pension plans are going bankrupt across the nation. He stated Council's direction to staff was not to reach an impasse and stated talks can still occur and an agreement can still be reached.

Councilmember Stephens thanked the speakers and stated Council does care about the officers and their service. She agreed with Councilmember Cunniff regarding the liability of a defined benefit package. She stated she hopes discussions can keep going to resolve the impasse. She stated she did not respond to the FOP email as she was uncomfortable doing so while negotiations were still ongoing. She apologized for not stating that as a response.

Councilmember Martinez asked if CSU, Timnath and other cities offer pension plans. DiMartino replied she was unsure as none of those are benchmark cities; however, she would research the issue.

Councilmember Martinez asked why Fort Collins does not provide retiree medical as do 10 of the 12 benchmark cities. DiMartino replied the City opted to eliminate that benefit in 2010 due to the financial liability for the City. It would likely cost the City \$5 to \$7 million over the next 5 years to provide that benefit.

Councilmember Martinez asked if the statistics described about the high performance of the police force are accurate. DiMartino replied in the affirmative. City Manager Atteberry stated performance has never been a question and the force has always been considered top notch.

Councilmember Martinez asked about the number of applicants decreasing over time. Deputy Chief Greg Yeager replied applicant numbers vary over the years, somewhat based on the economy.

Councilmember Martinez stated he is not at an impasse and does not believe the City should be either. He stated some type of compromise needs to be found and the divide is not good for the community.

Councilmember Overbeck thanked the speakers and stated, though he has met with the FOP in the past, he did not believe it was appropriate for him to intervene and respond to their email during the negotiations.

Mayor Pro Tem Horak stated he also did not believe Council should be involved during negotiations. He stated he does not understand the logic that officers are not being treated fairly because they don't receive Social Security as that benefit would likely be less than their plans. He stated he would like to see additional discussions and noted this agreement needs to be equitable for other City employees as well.

Mayor Troxell stated he is bothered by the "us versus them" perspective and stated Council respects and cares for all employees. He suggested the best option is to approve a contract for a year and continue discussions. All parties involved deserve a fair and equitable agreement. He asked about the next steps moving forward. City Manager Atteberry replied there is currently no agreement and therefore, currently no contract. As Council clearly does not want to see an impasse, further discussions need to occur.

City Attorney Daggett noted the agreement for Council consideration is for two years and this would need to be modified if a one-year agreement is desired.

City Manager Atteberry stated the formation of an exploratory committee to discuss the costs of a defined program has been considered and with or without a contract, moving forward with 2018 pay adjustments is the fair thing to do.

Councilmember Cunniff stated postponement makes sense and supported moving forward with 2018 salary adjustments.

Councilmember Martinez asked if discussion efforts continue if this item is postponed. City Manager Atteberry replied that should be the case given Council's desire to not be at an impasse.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to postpone Resolution 2017-113 indefinitely.

Councilmember Martinez stated he would support the motion, however, there must be some movement on negotiations.

Councilmember Cunniff asked if representatives from both parties meet regularly. Yeager replied a labor management meeting occurs between the FOP representatives and the executive staff. Recently, human resources personnel and DiMartino have been involved.

Councilmember Cunniff suggested a more regular meeting schedule regardless of the status of negotiations in order to keep lines of communication open.

RESULT:	RESOLUTION 2017-113 POSTPONED INDEFINITELY [UNANIMOUS]
MOVER:	Gerry Horak, District 6
SECONDER:	Ross Cunniff, District 5
AYES:	Martinez, Stephens, Overbeck, Troxell, Cunniff, Horak
ABSENT:	Summers

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to direct the City Manager to implement the Police 2018 projected raises and to continue to reach out to the FOP to continue negotiations on the following three items: retirement contribution, retiree medical coverage, and conflict resolution.

Mayor Pro Tem Horak stated negotiations should begin as soon as possible and noted Council would be willing to hold a special meeting if necessary.

Mayor Troxell encouraged discussions and that an agreement occur post haste. He stated the parties need to work together collaboratively.

The vote on the motion was as follows: Yeas: Horak, Troxell, Martinez, Stephens, Cunniff and Overbeck. Nays: none.

THE MOTION CARRIED.

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

● **DISCUSSION ITEMS**

22. **Consideration of the Long Pond Wireless Telecommunications Facility Addition of Permitted Use Request. (Adopted on First Reading)**

- A. *Public Hearing and First Reading of Ordinance No. 136, 2017, Approving the Addition of Permitted Use Associated with the Long Pond Wireless Telecommunications Facility Project Development Plan #160018.*

OR

- B. *Public Hearing and First Reading of Ordinance No. 137, 2017, Denying the Addition of Permitted Use Associated with the Long Pond Wireless Telecommunications Facility Project Development Plan #160018.*

The purpose of this item is to decide whether to approve, approve with conditions, or deny the Long Pond Wireless Telecommunications Addition of Permitted Use request (APU) being made in conjunction with PDP160018. The APU would allow the addition of wireless telecommunication facilities as a permitted use on a parcel of land located in the Low Density Mixed-Use Neighborhood (LMN) zone district. Wireless telecommunication facilities are not a permitted use in the LMN. PDP160018 proposes a 60-foot tall wireless telecommunication facility disguised as a silo at 2008 Turnberry Road.

Mayor Troxell introduced the item and outlined Council's role.

City Attorney Daggett outlined the procedure to be followed for this item and noted Council will make a final decision on the Addition of Permitted Use.

Cameron Gloss, Planning Manager, stated additional requested information regarding compliance with the Federal Telecommunications Act and coverage in the vicinity of the project site has been provided in Council's packet.

Clay Frickey, City Planner, stated this proposal involves a 60-foot tall wireless telecommunications facility, disguised as a silo, at 2008 Turnberry Road. The site is in the low-density, mixed-use zone district wherein wireless telecommunications facilities are not an allowed use by default; therefore, the applicant must seek an addition of permitted use (APU). If Council approves the APU, the applicant must still complete the final plan process and submit for building permits prior to constructing the tower.

Frickey discussed the Federal Telecommunications Act of 1996 which states that cities must permit cell towers within their jurisdiction and may use zoning to control the location and design of the facilities; however, cities may not consider environmental or health impacts as part of these applications.

Frickey showed the coverage map for the area and stated much of the area has poor coverage. He detailed each criterion and associated staff recommendations for the addition of permitted use. The staff recommends approval of the proposal and addition of permitted use with the condition that the silo height be lowered to 45 feet to be more compatible with other silos in the area and located closer to the other outbuildings to look more congruent with the site.

Christian Hendrickson, Sherman and Howard, stated more facilities are required to serve residents as the city expands and discussed the importance of cell service for emergency calls. He stated his firm is of the opinion the Federal Telecommunications Act mandates approval of a facility like this where a substantial gap in coverage has been shown and the proposed site is the least intrusive means of filling that gap.

Ken Bradtke, Atlas Tower Director of Operations, stated Atlas Tower owns, operates, and maintains telecommunications towers and facilities and leases space on those facilities to carriers. He reviewed the coverage map indicating a need in this area and discussed the need for service for emergency reasons, noting a man in this neighborhood suffered a stroke and passed away as neighbors could not reach 911 on their cell phones. He discussed efforts to approach other property owners in the area, the Fort Collins Country Club and Anheuser-Busch, to no avail. He showed photos of other towers in town and discussed the benefits of a taller tower.

Don Eason opposed the proposal and stated the tower will dominate the skyline. He argued renderings presented by Atlas were incorrect.

Doyle Thornton supported the proposal citing the importance of life, health, and safety issues. He stated he must drive out of his neighborhood to get good cell service and supported a taller tower to provide better service.

Virginia Farver opposed the proposal and stated she is working with several groups fighting the FCC concerning the 1996 Telecommunications Act. She discussed health impacts caused by cell tower radiation and stated this tower is too close to residential areas.

Kevin Forbes stated his parents own the property on which the tower is proposed. He stated false rumors about the technology have been spread among neighbors and expressed support for the project.

Shelton Base supported the proposal and discussed his neighbor who died as a result of not being able to call out. He presented a petition with 75 signatures in support of the project.

Jessica MacMillan stated cell service in the area has continued to deteriorate and suggested 7 or 8 towers are probably needed. She stated the design is appropriate for the property.

Tanja Andreas stated she is the nearest neighbor to the project and opposed the proposal. She acknowledged cell service is a problem in the area; however, that is not the issue. The silo would loom over her property and has researched likely property value decreases.

Katie McGerr supported the project and expressed concern about safety issues related to the lack of cell coverage.

Jim Miles supported the project and stated there is no substantive evidence this installation will decrease property values. There is a responsibility to serve the homes in the area.

Meredith Jordan supported the project citing safety concerns. The proposal fits in aesthetically with the area.

Ted Wolfe opposed the project and stated he gets fine cell service with Verizon at his home in the area. This tower is larger than normal silos and cellular service should not be used as a primary phone system.

Kurt Shriver stated he has been a real estate broker for 41 years and buyers have not been afraid to purchase properties near cell towers. The modern homebuyer is looking for high-speed internet and good cell service.

Debbie Cory stated Atlas has not responded to questions regarding who they contacted at Anheuser-Busch. She stated Sprint already has a tower at the brewery and suggested the applicant may not be able to be trusted in stating it did its due diligence.

Joanne Harms supported the project and stated she runs a telephone support service for veterans and her cell phone has never worked for that purpose. Aesthetic concerns pale in comparison to health and safety issues.

Marsha Lowsley stated the federal government put a gag order on citizens with the Telecommunications Act of 1996. She discussed health issues from cell towers in other countries.

Donna Onsvack discussed the need for cell service in the area, citing an issue with a neighbor's home that caught on fire. She requested Council not be short-sighted in meeting the needs of existing and new developments.

Eric Espedal supported the project citing safety concerns and the desire for the service in the area. A neighbor put out a survey on Nexdoor and, of the 270 respondents, 88% were in favor of the project.

Julie Koerner opposed the project and stated she would not have purchased her home in Storybook if she had known a 60-foot tower was proposed. She noted the City does not allow towers on its properties in order to uphold community values and investments in such land.

John Koerner showed renditions of what he stated this tower would actually look like. The size of the silo is not appropriate.

Nancy Eason opposed the project and stated Atlas' efforts to work with Anheuser-Busch were insufficient. Locating the tower on a higher site would provide more coverage and questioned why City lands cannot be considered. She also questioned if the Telecommunications Act applies if Verizon is not a co-applicant.

Steve Surowiec supported the project citing safety concerns and the need for first responders to be able to use cell phones in the case of an emergency. He supported the 60-foot height given the proposed new development in the area.

Jenny Forbes, owner of the property on which the tower is proposed, stated the tower is proposed to be behind the large barn, not behind their home. A tower at Anheuser-Busch may not be beneficial to certain areas.

Hunter Harms supported the project citing safety concerns for the lake community.

Travis Griffin, Senior Manager of RF Design for Verizon Wireless, stated the Anheuser-Busch property is almost 2 miles away from this location and locating the tower there could actually degrade service in the area. Cell sites have finite capacities and keeping up with growth is a challenge; this site is needed to serve the growing area.

Mr. Hendrickson clarified that Verizon has been in close communication with both Atlas and the City and is being considered a co-applicant for the project.

Councilmember Stephens asked why City land cannot be considered for this project. Frickey replied there is an administrative policy in place indicating the City will no longer entertain new cell phone tower leases.

Councilmember Martinez requested a photo of the exact location of the tower on the property. Frickey showed the proposed site plan and explained the location of the tower. Ms. Forbes had stated she was told the tower would be north of the barn, not behind the long barn. Frickey noted Council is to consider the location behind the long barn, not the barn to the north. Mr. Bradtke had stated the original proposed location was behind the long barn and the request from staff is to move it behind the north barn, which the applicant is not opposed to doing.

Councilmember Martinez asked if the applicant would accept a 45-foot height. Mr. Bradtke replied they would accept 45-feet but are requesting 60-feet in order to increase coverage to the southwest.

Councilmember Overbeck asked if the height of the tower dictates the wind speeds it can handle. Mr. Bradtke replied in the negative and stated wind shear is considered for all tower construction. He stated he was unsure what wind speeds a 60-foot silo could handle.

Mike Powers, Atlas Tower, stated he has reviewed engineering requirements for towers in various conditions and they are built to withstand incredible forces for each specific location.

Bob Newman, Center for Municipal Solutions, stated he is a registered structural engineer and noted the 2012 IBC will dictate tower design for wind speed and ice loading.

Councilmember Overbeck asked what would render the tower obsolete and therefore eligible for deconstruction. Mr. Bradtke replied the tower would become obsolete if the government outlawed the use of cell towers. Atlas will remove the tower if it is rendered useless.

Councilmember Overbeck asked Ms. Koerner to clarify her comments related to the Montava neighborhood meeting. Ms. Koerner replied the Montava development is a large development proposal west of Anheuser-Busch and the person running the neighborhood meeting from Montava said they would be interested in a cell tower lease.

Max Moss, representative from Montava, stated he has offered the option to discuss opportunities in order to solve the problem; however, he never stated he wanted a cell tower lease.

Councilmember Cunniff asked what the range of tower heights is in the Fort Collins area. Mr. Bradtke replied they range from 25-feet up to 150-feet in more rural areas.

Councilmember Cunniff asked what would occur with this lease if the property is sold and subdivided. Frickey replied the approval would only be for this use on this one parcel and the lease runs with the land.

Councilmember Overbeck asked if the applicant has ever built next to historic properties and if property values have been affected as a result. Mr. Bradtke replied their most recent construction next to a farm or barn was on the Kechter family's property on Ziegler. A report on that property found the inclusion of a silo tower on that property would not adversely affect or deter from the historic nature of the overall property. This project is similar. Regarding property values, people place value on different things.

Mayor Troxell asked about the factor of noise in the APU process. Frickey replied all ground equipment has to be screened either through landscaping or fencing. The application shows a wood fence that would surround the equipment compound and would effectively screen the equipment from adjacent properties; however, that does not include noise.

Mayor Troxell asked about the material of the skin of the silo. Mr. Bradtke replied there is basically no discernable noise unless the backup generator kicks in. The skin is made from a carbon fiber material.

Mayor Troxell asked if the silo top is open or closed. Mr. Bradtke replied it can be either.

Councilmember Cunniff expressed concern regarding future development in the area under the LMN zoning.

Councilmember Stephens stated coverage equals safety and that issue trumps other concerns.

Councilmember Overbeck suggested a condition requiring the tower to be dismantled if appropriate. He stated safety issues also need to be addressed on the side of wind speed.

Councilmember Martinez made a motion, seconded by Councilmember Stephens, to adopt Ordinance No. 136, 2017, on First Reading.

Councilmember Cunniff supported Councilmember Overbeck's concerns with wind loading and suggested the inclusion of a condition that would require the design of the structure to be changed to more compatibly fit in should neighboring structures be redeveloped. City Attorney Daggett stated that condition would take some further work.

Mayor Troxell stated the wind loading issue seems unnecessary.

Mayor Pro Tem Horak stated advice from staff could be received prior to Second Reading.

Councilmember Overbeck requested the inclusion of a condition requiring the tower to be dismantled if it becomes obsolete.

Mayor Pro Tem Horak requested a firm definition of "obsolete". Gloss replied staff could return with some suggested timeframes and definitions.

Councilmembers Stephens and Overbeck thanked the citizens who spoke.

Councilmember Cunniff stated he would be supporting the motion to advance the conversation.

Mayor Troxell clarified the motion has the tower at 45 feet in height.

Councilmember Martinez asked about the staff recommendation for the decrease in height. Frickey replied other nearby silos are 45 feet tall; therefore, staff found the height would make this more compatible.

Mayor Pro Tem Horak noted the north location by the larger barn will make the silo seem more proportional.

RESULT:	ORDINANCE NO. 136, 2017, ADOPTED ON FIRST READING [UNANIMOUS]
MOVER:	Ray Martinez, District 2
SECONDER:	Kristin Stephens, District 4
AYES:	Martinez, Stephens, Overbeck, Troxell, Cunniff, Horak
ABSENT:	Summers

● **Motion to Extend the Meeting past 10:30 PM**

Mayor Pro Tem Horak made a motion, seconded by Councilmember Overbeck, to extend the meeting past 10:30 PM, but no later than 12:00 AM, for the purpose of considering the remaining agenda items.

RESULT:	ADOPTED [5 TO 1]
MOVER:	Gerry Horak, District 6
SECONDER:	Bob Overbeck, District 1
AYES:	Stephens, Overbeck, Troxell, Cunniff, Horak
NAYS:	Martinez
ABSENT:	Summers

23. **Boxelder Basin Regional Stormwater Authority (BBRSA) Fee Payments. (Postponed Indefinitely)**

The purpose of this item is to authorize the City Manager to pay fees normally due in 2018 to Boxelder Basin Regional Stormwater Authority (BBRSA) in 2017. Ordinance No. 009, 2017, adopted on February 7, 2017, appropriated the amount of \$330k for this pre-payment in 2017. Staff has been working with the members of BBRSA to develop an Intergovernmental Agreement (Agreement) to resolve various financial concerns of the members. With the adoption of the Agreement and members' completion of various actions defined in the Agreement, BBRSA will have adequate funds to meet all 2017 obligations. In the event of a delay in approval of the Agreement by all members and Timnath, the payment of Fort Collins 2017 estimated annual stormwater service and development fees normally due and payable to the Authority in 2018, will allow BBRSA to meet all obligations while members finalize the Agreement.

City Manager Atteberry stated the Wellington Town Council passed this item this evening and Timnath passed it last Friday afternoon in a special meeting.

Mayor Pro Tem Horak stated the Town of Wellington will be sending its payment to the Boxelder Basin Regional Stormwater Authority tomorrow.

City Attorney Daggett clarified Council does not have an action item needing resolution this evening; therefore, if there is no motion, the item will be completed.

Eric Sutherland questioned the meaning of this agenda item. He commented on the \$42 million cost of the project.

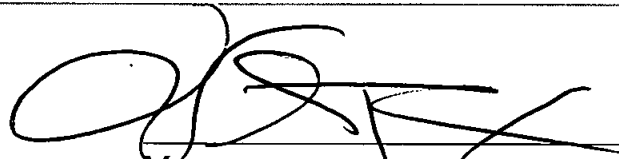
Mayor Pro Tem Horak stated Councilmembers wanted assurance nothing drastic had occurred and noted this item authorized the pre-payment of already appropriated funds.

● **ADJOURNMENT**


Mayor Pro Tem Horak made a motion, seconded by Councilmember Martinez, to adjourn the meeting and consider the remaining items at the next Council meeting.

RESULT:	MOTION TO CONSIDER REMAINING ITEMS ON JANUARY 2, 2018, ADOPTED [UNANIMOUS]
MOVER:	Gerry Horak, District 6
SECONDER:	Ray Martinez, District 2
AYES:	Martinez, Stephens, Overbeck, Troxell, Cunniff, Horak
ABSENT:	Summers

The meeting adjourned at 10:52 PM.


Mayor

ATTEST: .


City Clerk

