

October 1, 2019

COUNCIL OF THE CITY OF FORT COLLINS, COLORADO

Council-Manager Form of Government

Regular Meeting – 6:00 PM

● **ROLL CALL**

PRESENT: Pignataro, Gorgol, Gutowsky, Summers, Stephens, Troxell, Cunniff
ABSENT: None
Staff Present: Atteberry, Daggett, Coldiron

● **AGENDA REVIEW: CITY MANAGER**

City Manager Atteberry stated there were no changes to the published agenda.

● **PUBLIC COMMENT**

Stacy Lynne discussed research she has completed on the cities of Fort Collins and Loveland and Larimer County.

George Grossman, Happy Lucky's Tea House, discussed the staff recommendation to move forward with plan A1 for the Linden Street renovation which will remove 30 parking spaces. He questioned how the loss of parking will affect the vitality of business on Linden and the surrounding area. He stated this plan is a direct threat to small business whereas alternative B can meet all the original goals and new goals of the renovation.

Mary Copco, Fort Collins Symphony Executive Director, thanked Council for Fort Fund's support of its 70th season.

Wes Kenny, Fort Collins Symphony Maestro, discussed the history of the Symphony and introduced principal trumpet player Stan Curtis.

Stan Curtis played excerpts from the upcoming Symphony concert.

Susan Wilmer, Old Firehouse Books, opposed the proposed renovation plan for Linden Street given the loss of parking spaces in the recommended plan.

Wally VanSickle, landlord of 201 Linden Street, supported the Linden Street renovation but opposed the loss of parking as part of the staff recommendation of plan A1. He supported alternative B.

Kathryn Dubiel stated there have been several instances wherein the public has not been informed about various City occurrences such as the public forum for the Planning, Development and Transportation Director candidates.

Mike Pruznick stated his project to build a fossil free demo home was blocked by Ordinance No. 070 and suggested it be reviewed stating it is critical the City limit artificial barriers to fossil fuel-free housing.

Nick Francis, Partners in Climate Action, PICA, stated PICA has started two more working groups, one on solar and distributed energy resources and one on air quality. He announced a public forum on October 14th at the Senior Center.

Eric Sutherland stated Council is being routinely misinformed on legal matters, including a matter in district court related to the electric enterprise utility. He also discussed the I-25/Prospect metro district.

Jerell Clobber, Salus, expressed concern about the implementation of the Linden Street renovation stating no quantitative analysis has been done. He stated the removal of parking spaces will have a significant negative economic impact on the area.

Virginia (no last name given), Locks and Mane Hair Salon, requested Council take up the issue of the Linden Street renovation under Other Business so as to address concerns related to parking.

Nancy York stated priorities should be reset directing staff work and finances toward reducing greenhouse gases given the climate emergency declaration. She suggested making transit free could aid in that goal.

- **PUBLIC COMMENT FOLLOW-UP**

Mayor Troxell summarized the citizen comments.

Councilmember Cunniff requested staff input regarding the public forum announcement for the Planning, Development, and Transportation Director candidates. Deputy City Manager Jeff Mihelich replied the outreach for the forum included emails and a public posting. He stated a couple dozen residents attended the forum; however, staff would welcome the opportunity to have conversations related to additional public input.

Mayor Troxell requested staff input related to the Linden Street project. Chad Creger, City Engineer and Interim Planning, Development, and Transportation Director, stated there was an open house last night and discussed the 75 conversations staff has had with area business owners over time. He noted the recommended plan came from conversations with the businesses and property owners, not from staff. He stated the recommended plan gives better spaces for pedestrians and the urban design and the ability to bridge the gap between Old Town Square and the River District. Creger stated parking will be addressed by creating more efficient parking in the area which has resulted in a minimum of 17 additional spaces, more efficient wayfinding for Old Firehouse Garage, an overall marketing campaign for downtown parking, and adjusting garage fees down during construction.

Mayor Troxell noted Council has received a letter from area business owners in support of option A1 as recommended by staff.

Mayor Pro Tem Stephens asked if speeds will be lowered on Jefferson Street if parking were to be added there. Creger replied staff is working with CDOT to create bulb outs to lessen the distance to cross Jefferson.

Councilmember Cunniff asked why particular striping patterns are required as part of the Linden Street construction. Creger replied diagonal parking leaves less room on the sidewalk for additional place-making and urban design characteristics. Moving parking to parallel allows for a

wider sidewalk that is more accommodating of pedestrians. He noted there will be no curbs in the design but there will be planters and tables.

Councilmember Cunniff asked if it would be possible to switch between parking types. Creger replied staff has examined that option; however, if diagonal parking is allowed, a separate construction process would need to occur in the future to switch it to parallel as the space where the cars would be in a diagonal arrangement would be the space where plantings and other place-making aspects would be located.

Councilmember Cunniff asked why free parking in the garage is not being considered for the time during construction. Creger replied that could certainly be an option and staff does recognize the parking impacts will be significant during construction.

Councilmember Cunniff asked if any policy conclusions regarding downtown parking have resulted in suggested changes. City Manager Atteberry replied in the negative.

Councilmember Cunniff stated he would prefer to have some flexibility in the parking configuration that would allow for some trees, but movable seating and planters.

Councilmember Summers agreed with Councilmember Cunniff's concerns and stated he spent several hours chatting with people in the area last week. He stated it would be nice to have some options in terms of the final design and stated his concern is the impact on businesses during construction. He encouraged staff to remain as flexible as possible and stated outreach is going to need to intensify as construction begins.

Councilmember Gutowsky expressed empathy with the small business owners noting their profit margins are extremely small. She noted if those businesses leave, the quaintness of Old Town leaves.

Mayor Troxell noted Council did receive a letter signed by 16 businesses on Linden and Walnut in support of plan A1 and six speakers against it this evening. He noted pavers that are part of the infrastructure provide the striping; therefore, changing that later in the design will be difficult. He also noted attention needs to be paid toward meeting the City's obligations with regards to the public/private partnership in the parking garage.

Councilmember Gutowsky noted constituents are concerned about the number of festivals that may be occurring on the street as she has been told they are bad for businesses. She asked how many are anticipated to occur. Crager replied there are no planned festival additions; this just provides flexibility in the future.

City Manager Atteberry stated the normal protocol in this case would involve him sending a memo to Council in its Thursday packet that will include a staff suggestion about how to proceed. Staff will then do so unless hearing otherwise from Council.

- **CONSENT CALENDAR**

Mayor Pro Tem Stephens made a motion, seconded by Councilmember Gutowsky, to adopt and approve all items on the Consent Agenda.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Kristin Stephens, District 4
SECONDER:	Susan Gutowsky, District 1
AYES:	Pignataro, Gorgol, Gutowsky, Summers, Stephens, Troxell, Cunniff

2. **Second Reading of Ordinance No. 112, 2019, Appropriating Prior Year Reserves in the Data and Communications Fund for Implementation of Electronic Plan Review. (Adopted)**

This Ordinance, unanimously adopted on First Reading on September 17, 2019, appropriates funds from the reserves of the Data and Communications fund for implementation of electronic plan review as part of the building permit process.

3. **Second Reading of Ordinance No. 113, 2019, Amending the City of Fort Collins District-Precinct Map to Reflect Changes in County Precinct Boundaries and Waiving the Redistricting Requirement of Section 7-87(d) of the City Code. (Adopted)**

This Ordinance, unanimously adopted on First Reading on September 17, 2019, aligns City precinct boundaries with County precinct boundaries as required by Section 7-66 of the City Code. None of the divided precincts affect Council district boundaries.

4. **Second Reading of Ordinance No. 114, 2019, Vacating Portions of Rights-of-Way Dedicated on the Waterfield Third Filing Plat. (Adopted)**

This Ordinance, unanimously adopted on First Reading on September 17, 2019, vacates various rights-of-way dedicated on the Waterfield Third Filing plat that are no longer necessary or desirable to retain for roadway purposes. The rights-of-way vacation includes various public road rights-of-way within the Waterfield development. The property is being sold to a new developer who is proposing a revised project layout. The existing on-site road rights-of-way need to be vacated prior to recording the new plat. The vacation will not impact any existing rights-of-way of adjacent public streets (North Timberline Road, East Vine Drive, East Suniga Road, Merganser Drive (south of Suniga Road), Turnberry Road or Conifer Street). The property is currently proposed to be replatted as Waterfield Fourth Filing.

5. **First Reading of Ordinance No. 120, 2019, Appropriating Prior Year Reserves, Unanticipated Revenue and Authorizing Transfer of Funds for the Small Business Revolving Loan Fund Program. (Adopted)**

The purpose of this item is to authorize the transfer of funds from the Keep Fort Collins Great Fund to the General Fund and appropriate therein and to appropriate reserves and current year revenue from Platte River Power Authority (PRPA) Economic Development Program funds in the General Fund to create the City of Fort Collins Revolving Loan Fund for small businesses and startup companies operating in Fort Collins. The City will use the funds to support access to capital for small businesses in Fort Collins, which have historically not had access to traditional financial capital markets ("under banked" or "non-bankable") The demographic focus of this program will be low-income, minority, veteran, and women-owned small businesses.

6. **First Reading of Ordinance No. 115, 2019, Appropriating Prior Year Reserves and Unanticipated Revenue in Various City Funds and Authorizing the Transfer of Appropriated Amounts of Funds or Projects. (Adopted)**

The purpose of this Annual Adjustment Ordinance is to combine dedicated and unanticipated revenues or reserves that need to be appropriated before the end of the year to cover the related expenses that were not anticipated and, therefore, not included in the 2019 annual budget appropriation. The unanticipated revenue is primarily from fees, charges, rents, contributions, donations and grants that have been paid to City departments to offset specific expenses.

7. **Items Relating to Objects Obscuring Traffic Control Devices. (Adopted)**

- A. First Reading of Ordinance No. 117, 2019, Amending the Code of the City of Fort Collins as it Relates to Objects Obscuring Traffic Control Devices.
- B. First Reading of Ordinance No. 118, 2019, Amending the Fort Collins Traffic Code as it Relates to Objects Obscuring Traffic Control Devices.

The purpose of this item is to consider revisions to the Fort Collins City Code and the City Traffic Code as they relate to the responsibilities for pruning private trees, shrubs or other plants that overhang or otherwise encroach on the public right-of-way. The changes will make the requirements in the two Codes consistent and provide a level of flexibility for City staff to immediately address issues of safety in the public right-of-way at its own expense, if needed.

8. **Resolution 2019-094 Approving the Purchase of Two Biogas Powered Generator Sets from Woodward, Inc. as an Exception to the Competitive Purchasing Process. (Adopted)**

The purpose of this item is to approve an exception to the competitive purchasing process for the purchase of two biogas powered combined heat and power (CHP) generator sets for the Drake Water Reclamation Facility (DWRf) in support of the City's climate action plan (CAP) goals. Woodward has been collaborating with City staff and consultants for several years working in the design of a cost-efficient combined heat and power (CHP) system that can utilize biogas produced at DWRf. Purchasing the CHP generator set through Woodward provides the most economical procurement while allowing Woodward to leverage equipment provided by the company, its vendors, and clients.

9. **Resolution 2019-095 Authorizing the City Manager to Execute an Agreement Regarding Use of the Munroe Canal. (Adopted)**

The purpose of this item is to approve execution of an agreement between the City of Fort Collins, through Fort Collins Utilities, and multiple other parties regarding operations of the Munroe Canal that supplies water to Fort Collins Utilities via the Pleasant Valley Pipeline. The agreement mainly outlines roles and responsibilities among these parties that have been vague since pipeline operations started in 2003 and will greatly improve future operations, but also includes reasonable payments to the North Poudre Irrigation Company for its operational efforts.

10. **Items Relating to Agreements for Delivery of Horsetooth Reservoir Water During the Temporary Shutdown of the Horsetooth Reservoir Soldier Canyon Outlet. (Adopted)**

- A. Resolution 2019-096 Authorizing the City Manager to Execute an Agreement Between the City of Fort Collins, the East Larimer County Water District, the Fort Collins-Loveland Water District, the North Weld County Water District, and the Northern Colorado Water Conservancy District Acting By and Through the Pleasant Valley Pipeline Water Activity Enterprise Regarding a Supplemental Means to Deliver Horsetooth Reservoir Water to the Fort Collins Water Treatment Facility and Soldier Canyon Water Treatment Plant (Pleasant Valley Pipeline Modifications and Use).
- B. Resolution 2019-097 Authorizing the City Manager to Execute an Agreement Between the City of Fort Collins, the East Larimer County Water District, the Fort Collins-Loveland Water District, the North Weld County Water District, and the City of Greeley Regarding a Supplemental Means to Deliver Horsetooth Reservoir Water to the Fort Collins Water Treatment Facility and Soldier Canyon Water Treatment Plant (Greeley Infrastructure Modifications and Use).
- C. Resolution 2019-098 Authorizing the City Manager to Execute an Agreement Between the City of Fort Collins, the East Larimer County Water District, the Fort Collins-Loveland Water District, and the North Weld County Water District Regarding a Supplemental Means to Deliver Horsetooth Reservoir Water to the Fort Collins Water Treatment Facility and Soldier Canyon Water Treatment Plant (Project Work - New Infrastructure - New Property Rights).

The purpose of this item is to authorize the City Manager to execute three agreements between combinations of the City of Fort Collins (City), Fort-Collins Loveland, East Larimer County, and North Weld County water districts (the Tri-Districts), the City of Greeley (Greeley), and the Northern Colorado Water Conservancy District (Northern Water) regarding a project to provide a temporary backup water supply pumping system during an October-November 2020 shutdown of the Soldier Canyon Dam Outlet pipeline (Soldier Canyon Outlet) which conveys water from Horsetooth Reservoir to the two drinking water treatment plants serving Fort Collins and surrounding areas. The pumping system is intended as a backup supply system to the primary Cache la Poudre River water supply during the 60-day long planned outage of the Soldier Canyon Outlet.

Three separate agreements are needed because each agreement concerns discrete aspects of this project, involving specific infrastructure and set of entities: (A) an agreement between the City, the Tri-Districts, and Northern Water regarding the use of Northern Water's Pleasant Valley Pipeline; (B) an agreement between the City, the Tri-Districts, and Greeley regarding the use of Greeley's infrastructure; and (C) an agreement between the City and the Tri-Districts regarding the ownership, design, construction, and operation of new infrastructure.

11. **Resolution 2019-099 Adopting an Updated Process for City Council Evaluation of the Performance of the City Manager, City Attorney and Chief Judge and Establishing Benchmark Cities. (Adopted)**

The purpose of this item is to modify the performance evaluation process for the City Manager, City Attorney and Chief Judge to add flexibility in the timing of performance and salary information and discussions. The item also provides a recommended list of compensation benchmark cities for Council's direct report employees.

● **END CONSENT**

● **CONSENT CALENDAR FOLLOW-UP**

Councilmember Summers commented on Item No. 7, *Resolution 2019-094 Approving the Purchase of Two Biogas Powered Generator Sets from Woodward, Inc. as an Exception to the Competitive Purchasing Process*, as being a good news item and a step toward furthering climate action goals.

Councilmember Cunniff thanked the ad hoc committee for their work on Item No. 10, *Resolution 2019-099 Adopting an Updated Process for City Council Evaluation of the Performance of the City Manager, City Attorney and Chief Judge and Establishing Benchmark Cities*.

Mayor Pro Tem Stephens expressed support for Item No. 4, *First Reading of Ordinance No. 120, 2019, Appropriating Prior Year Reserves, Unanticipated Revenue and Authorizing Transfer of Funds for the Small Business Revolving Loan Fund Program*, noting it shows the City's support for small businesses. She requested an update on City Gives as per Item No. 5, *First Reading of Ordinance No. 115, 2019, Appropriating Prior Year Reserves and Unanticipated Revenue in Various City Funds and Authorizing the Transfer of Appropriated Amounts of Funds or Projects*.

Mayor Pro Tem Stephens commended the process regarding Item No. 10, *Resolution 2019-099 Adopting an Updated Process for City Council Evaluation of the Performance of the City Manager, City Attorney and Chief Judge and Establishing Benchmark Cities*.

STAFF REPORTS

Poudre Fire Authority Metrics. (staff: Ron Simms)

Fire Chief Tom DeMint stated Poudre Fire Authority is proud to be collecting data and is proud of the results.

Ron Simms, Planning and Analysis Chief, discussed the Poudre Fire Authority metrics and stated this particular metric, the percent of time PFA intercedes in the flashover, which is when everything in a single room reaches its ignition temperature, has been very successful for PFA. If fire fighters can intercede prior to flashover, they can succeed in keeping the fire contained to the room, there is a greater potential for life safety throughout the structure, and there will be less damage.

Councilmember Pignataro asked why flashover happens more quickly in today's environment. Simms replied most items were constructed from natural materials in the past and newer items are constructed of more hydrocarbons, such as polyesters; therefore, fire reaches its higher temperatures much quicker.

Mayor Pro Tem Stephens asked about community risk reduction, especially with regard to mobile home parks noting a great deal of educational efforts have been ongoing. Simms replied PFA has had a long-term program targeting specific neighborhoods that may be less advantaged and have less access to basic fire protection systems. The community outreach director has canvassed several mobile home parks with bilingual fire fighters or social work students to install smoke detectors at no charge, change batteries, provide public education, and ask critical questions on health care needs.

● COUNCILMEMBER REPORTS

Councilmember Gutowsky reported on the dedication of the Sugar Beet Park at Lemay and Vine.

Councilmember Cunniff also reported on the Park dedication and its large number of attendees.

Mayor Pro Tem Stephens reported on the SAVA soiree event and the Open Streets event.

Councilmember Summers reported on the Constitution Day event at Veterans Plaza at Spring Canyon Park.

Councilmember Gutowsky reported on the Life Saver Breakfast put on by the Suicide Prevention Alliance.

Mayor Troxell reported on the 100th celebration of WWV, the oldest still running radio station which broadcasts time signals globally. He also reported on CSU and the City hosting the Passenger Rail Association and Colorado Railroad Board.

● **DISCUSSION ITEMS**

12. **Resolution 2019-100 Regarding Immigration Conditions at the Southern Border of the United States and Its Impact on the Fort Collins Community. (Adopted)**

The purpose of this item is to acknowledge the impact that national events have on the immigrant communities within Fort Collins, state that Fort Collins welcomes those lawfully seeking asylum, and to encourage participation with public safety agencies and in the decennial Census. The resolution also calls upon the United States Congress and the Trump administration to take action to prevent any inhumane treatment at the southern border and to quickly create a sustainable pathway for immigration into the United States, and sets out related follow up actions.

Tyler Marr, Policy and Project Manager, stated this Resolution is the result of an iterative process and review by the Legislative Review Committee and it addresses the engagement of immigrant communities from a public safety perspective around reporting and witnessing crime as well as from a representation standpoint around engaging in the 2020 census. It advocates for immigration reform at the federal level, specifically around a sustainable pathway to immigration, instructs language to that effect in the Legislative Policy Agenda, and states that Council will engage our federal delegation in an upcoming meeting in October.

Marr stated the next steps are the Legislative Policy Agenda work, continuing the relationship-building that is part of the community trust initiative, and the October meeting with federal representatives.

Deirdre Sullivan, The Family Center/La Familia Executive Director, thanked Council for the Hispanic/Latinx Heritage Month proclamation and stated this resolution is needed. She commended the work the City has done to build trust in the community.

Daniel Scott stated he is a first generation Mexican-American and he commended the resolution as being extremely important in helping integrate immigrant families.

Councilmember Gorgol thanked the Legislative Review Committee and staff for their work on this resolution stating it captures some of the issues residents are feeling and works toward providing a welcoming community for immigrants.

Mayor Pro Tem Stephens made a motion, seconded by Councilmember Pignataro, to adopt Resolution 2019-100.

Councilmember Summers stated much of this has to do with national policy and suggested it would be helpful to have a broader context.

Councilmember Summers made a motion, seconded by Councilmember Cunniff, to amend the resolution to include additional language related to work by Colorado's legislators at a national level.

Councilmember Summers stated it is important to recognize what local congressional leaders are doing on a national level to address these concerns.

Councilmember Cunniff stated Councilmember Summers' additions seem factual and suggested a language change related to his third whereas clause. Councilmember Summers replied his language related to the Director of Child Welfare for Health and Human Services is factual.

Councilmember Gorgol stated her understanding was the resolution should focus on local concerns

and questioned how these amendments help support those. Councilmember Summers replied it is important for individuals to know their national elected representatives who have actual responsibilities on these issues are working on them.

Councilmember Gutowsky agreed with Councilmember Gorgol about the focus of the resolution being local. She stated she would like the resolution to be a statement of support and celebration of the community's immigrants.

Mayor Pro Tem Stephens stated she does not see a need to call out individuals in this resolution and stated it should focus on how national policy is affecting people in the local community.

Councilmember Summers stated he appreciates the comments and withdrew his motion. Councilmember Cunniff withdrew his second.

Councilmember Summers made a motion, seconded by Councilmember Gutowsky, to withdraw sections 3-6 of the resolution given comments made about the local focus.

Councilmember Summers stated he would like to withdraw those sections in order to keep the resolution locally focused.

Mayor Pro Tem Stephens stated the reason some citizens do not feel comfortable is due to the national policy confusion and inability to act on pathways to citizenship. She stated she would not support a motion to remove those sections.

Councilmember Gorgol stated she would also support retaining those sections as they reference what Council can do as a local entity.

Councilmember Pignataro stated she does not see the proposed inclusion as being related to sections 3-6.

Mayor Troxell stated sections 3-6 appropriately call on the legislative and executive branches to put forth solutions that address the issue. He stated what is happening at the federal level is not serving the local community.

Councilmember Cunniff expressed support for the inclusion of the sections as they place responsibility on the administration and both houses of congress to help fix the situation and address issues with the census. He stated he would not support the motion to withdraw sections 3-6.

Councilmember Summers stated the reality is this resolution does not share anything with national leaders they do not already know. He stated offering a narrow, simplistic solution may do more harm than good.

Mayor Pro Tem Stephens stated taking care of the people in this community is what is important and suggested informing national leaders about the impact of these issues on a local level is not a bad thing. She stated it is the duty of local leaders to hold the national government accountable for years of bad immigration policy that has led to a crisis.

Councilmember Summers agreed Council needs to be concerned about people in this community; however, he disagreed the proposed resolution is the right way to go about that. He stated Council

should take action to help residents of this community. Mayor Troxell replied this resolution does not preclude that.

The vote on the motion to amend was as follows: Yeas: Summers. Nays: Stephens, Troxell, Gutowsky, Pignataro, Cunniff and Gorgol.

THE MOTION FAILED.

The vote on the original motion was as follows: Yeas: Stephens, Troxell, Gutowsky, Pignataro, Cunniff and Gorgol. Nays: Summers.

THE MOTION CARRIED.

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

RESULT:	ADOPTED [6 TO 1]
MOVER:	Kristin Stephens, District 4
SECONDER:	Julie Pignataro, District 2
AYES:	Pignataro, Gorgol, Gutowsky, Stephens, Troxell, Cunniff
NAYS:	Summers

13. Items Relating to the Northfield Metro District Nos. 1 through 3 Consolidated Service Plan. ()

- A. Resolution 2019-101 Reconsidering, Rehearing and Approving the Consolidated Service Plan for Northfield Metropolitan District Nos. 1-3.
- B. Resolution 2019-102 Making Findings, Determinations and Conclusions Denying on Rehearing the Consolidated Service Plan for Northfield Metropolitan District Nos. 1-3.

The purpose of this item is for City Council to consider on rehearing approval of the Northfield Metropolitan District Nos. 1 through 3 Consolidated Service Plan (the "Service Plan") or, alternatively, to deny the Service Plan on rehearing. Resolution 2019-101 is what Council should adopt to approve the Service Plan. Resolution 2019-102 is what Council should adopt to deny the Service Plan. If Resolution 2019-102 is adopted to deny the Service Plan, Council should also decide in Section 5 of the Resolution what its reasons are for denial on the basis of non-compliance with the Council's current Metro District Policy (Policy). The Policy contemplates that only Service Plans that provide "extraordinary public benefits that align with the goals and objectives of the City" are favored for approval.

The developer of the proposed Northfield Development has submitted the Service Plan to support the proposed development of approximately 56 acres located north of Vine Street on the west side of Lindenmeier Road/Lemay Avenue (southeast of the Lake Canal and north of the to-be designated historic Alta Vista neighborhood). The development is anticipated to include 442 residential units and a mixed-use center that will offer light commercial use on the first floor, residential for-rent units on the second floor, and small amenities open to the public. The project has committed to provide approximately 15 percent for-sale affordable housing units. A Mill Levy Cap of 50.00 mills has been proposed under the Service Plan to support the project.

As per the Council's Metro District Policy, proceedings for a public hearing for a Metro District Service Plan public hearing are as follows:

1. *Announcement of item*
2. *Consideration of any procedural issues*
3. *Explanation of the application by City staff*
4. *Presentation by the applicant (suggested time: 15 minutes)*

5. *Public testimony regarding the application*
6. *Rebuttal testimony by the applicant (suggested time: 10 minutes)*
7. *Councilmember questions of City staff and the applicant*
8. *Motion, discussion and vote by City Council.*

The public hearing for this Service Plan was previously noticed in accordance with Council's Metro District Policy to be conducted at Council's August 20, 2019, meeting. However, Council voted at that meeting, as authorized in Section 2.c. of the Council's Rules of Procedure, to continue this matter to the Council's next regular meeting, which is this September 3, 2019, meeting. The applicant mailed on August 22, 2019, notice of this continuance to the fee-title owners of property within the proposed Districts and published this notice in the *Coloradoan* on August 24, 2019.

At its September 3, 2019 meeting, the Council adopted a motion to again continue the hearing, rescheduling the hearing for the September 17, 2019 meeting. At its September 17, 2019, meeting, City Council voted to deny approval of the Service Plan. However, at its September 24, 2019, meeting, City Council voted to reconsider and re-hear the application, which was scheduled for this October 1, 2019 meeting.

City Attorney Daggett reviewed the hearing process for the item and noted it includes two resolutions, one of approval and one of denial.

Mayor Troxell outlined the time limits for speakers and requested the applicants identify themselves. He noted that all comments received prior to and at the first hearing are part of the record of this hearing.

Josh Birks, Economic Health Director, noted Council's read before memo included an error related to the maximum debt authorization for the Northfield Metro District. That number should have been \$16 million.

Birks reviewed the project stating it will be a multi-phased project with a total of 442 residential units, 65 of which must be affordable. He stated the City's metro district policy ensures metro districts provide extraordinary public benefits and this project provides several.

Birks detailed the four primary changes made since the September 17th service plan considered by Council: the LEED Gold standard, a target HERS rating of 35-49, and rooftop solar will now apply to all 442 units, not just the market-rate units and affordable units offered on the rental market must average 60% AMI across the number of rental units.

Jason Sherrill, Landmark Homes, thanked Council for reconsidering this item. He noted the location of the project is within walking distance of Old Town and stated the opportunity for this type of development will not exist again. Sherrill detailed the application of the LEED Gold standard, HERS ratings, and rooftop solar to the affordable housing units. He also noted Mercy Housing is planning to provide 96 affordable units and stated Council can be guaranteed the affordable units will be provided due to the service plan requirements.

Mr. Sherrill discussed the attainable housing and public improvement provided by the project. He anticipated the project will not reach the \$16 million debt cap based on existing market factors and noted metro districts are much more equipped to take on ongoing maintenance than an HOA. He stated a metro district is the perfect vehicle to bring affordability, attainability, LEED Gold standards, high energy efficiency standards, and commitments to public improvements to the market.

Nick Francis, Partners in Climate Action, PICA, discussed the response his organization submitted to this proposal and stated he did not hear responses to some questions that were part of that response. He noted the applicant has been very responsive to the concerns and interests of Council and commended the improvements to the proposal over time.

Eric Sutherland thanked Council for incorporating written comments received from the previous hearing into this hearing. He stated this proposal creates three metro districts with a single service plan and argued that is not a good practice given the physical separation of the Mercy Housing aspect. He asked why the entity to which that land is ultimately conveyed should not have complete control of its own destiny through democratic processes.

Mr. Sutherland stated the legislative intent of the statute is to have one service plan for one metro district. He thanked the individuals who have worked to ensure the City's metro district policy advances the objectives discussed within the City organization.

Mr. Sherrill thanked Mr. Francis for his acknowledgement and stated the team at Green Insight will provide the extraordinary LEED Gold outcome.

Councilmember Gorgol requested staff input as to Mr. Sutherland's comments related to multiple service plans for multiple metro districts and the associated enforceability thereof. Deputy City Attorney John Duval replied there is nothing in the state statutes that prohibits Council from approving a consolidated service plan for multiple metro districts; however, it could also be done separately. He stated it is likely being proposed as a multi-district plan as the districts are going to have to operate together to provide the various public improvements but deferred to the applicant to further address that question.

Robert Rogers, attorney for Landmark Homes, replied there was a time in Colorado wherein the vast majority of service plans for multiple districts were submitted separately; however, there are now many more consolidated service plans due to administrative advantages. He stated it is easier for the city to assert its contractual privity for enforcement in a consolidated plan.

Councilmember Gorgol asked if the metro district board would oversee the entire consolidate area or if each metro district would have its own board. Mr. Rogers replied it is three separate boards that will typically hold joint meetings early on and move into separate meetings as property starts to turn over to residents.

Councilmember Gorgol asked how the board moves from being developer-controlled to resident-controlled. Mr. Rogers replied the state statute allows lot buyers to be immediately eligible to be an elector in district elections. He stated there are director elections every two years under the statute with staggered four-year terms.

Councilmember Gorgol asked if there is a time after which the developer is no longer allowed to be on the board. Mr. Rogers replied in the negative but noted the service plan urges an expedient transition. It is generally up to the residents as to when they want to vote themselves onto the board.

Councilmember Gorgol asked what happens at the end of the 20-year deed restriction on the affordable units. Birks replied the deed restriction would apply to the for sale affordable units and with the likely outcome that Mercy Housing will be the residential developer and will use low-income tax credits, there is a different standard applied, which is usually 30 to 40 years. If for sale

housing is delivered with a 20-year deed restriction, the unit can return to the market after 20 years unless some other type of intervention with reinvestment takes place to keep the unit affordable.

Councilmember Summers asked why there are three metro districts instead of one. Mr. Rogers replied there are a few factors, one of which is different use types resulting in different mill levy sensitivities. Additionally, it may be that a determination is made in the future to split the different services between the districts. He noted that all three districts may not need to be used depending on how the development proceeds and any unused district could be dissolved, which is common.

Councilmember Summers asked about the composition of the metro district boards. Mr. Rogers replied there would be five seats on each of the three boards and as soon as residents move into the district boundaries, they are immediately eligible to run in the next election.

Councilmember Pignataro asked if the metro districts are along geographical boundaries. Mr. Rogers replied in the affirmative.

Councilmember Pignataro asked if renters can serve on a metro district board. Mr. Rogers replied in the affirmative.

Councilmember Pignataro asked if there would ever be a case wherein a resident would be part of multiple districts. Mr. Rogers replied districts can overlap which is one benefit of a consolidated service plan that would provide an aggregate mill levy cap.

Councilmember Pignataro asked if there will be an enhanced crosswalk or overpass to provide a crossing of Suniga. Mr. Sherrill replied the approved PDP provides an easement for the regional trail which will be the primary crossover. The design of the crossing has yet to be finalized. Birks noted there is also a pedestrian crossing at Lemay.

Councilmember Gutowsky asked about the advantages of Fort Collins' metro district guidelines. Birks replied the debt cap and mill cap limit the overall burden to a homeowner over time. Additionally, the operations and maintenance mill levy is capped and additional disclosures are required that are not part of the statute. The development agreements often include additional securities to ensure the public benefits and other promises within the service plan are delivered.

Deputy City Attorney Duval noted Fort Collins' agreements also provide for very specific enforcement provisions and residents can also request amendments to the service plans as they begin to take over the districts.

Councilmember Gutowsky asked how many years it will take to pay off the debt mill levy. Birks replied there are several variables; however, there is a financial plan exhibit within the service plan that is based on the best estimate of absorption of the units. Mr. Rogers replied the typical debt issuance is structured to be a 30-year obligation based on the imposition of the agreed upon mill levy, which in this case is maxed out at 40 mills.

Councilmember Gutowsky asked if the public benefits must be completed prior to the City issuing certificates of occupancy. Birks replied this question is addressed in detail at the development agreement phase and different aspects of the public benefits will be tied to the pace of development and the completion of certain components. He noted Council will have the opportunity to provide guidance regarding the development agreement.

Councilmember Gutowsky asked what assurance the City has that Mercy Homes will fulfill its obligation to the development. Mr. Sherrill replied Landmark Homes has a signed letter of intent and a contract is ready to be executed upon approval of the metro district; however, he acknowledged there is no guarantee at this point. Birks noted the service plan requires 65 affordable units with a service plan that details how that is going to be delivered, and it must be delivered prior to the second half of the building permits being issued.

Councilmember Gutowsky asked why the affordable housing cannot be dispersed among the market rate homes. Mr. Sherrill replied Mercy Housing has stated it is an extraordinary logistical challenge to attach an affordable unit to an attainable or market unit and soliciting low-income housing tax credits would be difficult. He also noted FHA project approval can be difficult or impossible to attain if an affordable unit is mixed into a market project.

Councilmember Cunniff asked if there is a cap on the dollar amount of annual mills collected. Birks replied there is not a cap on the dollar amount; however, there is a total debt cap and a mill cap. He noted the service plan allows for refunding within the 40-year timeframe and it would be encouraged when it generates a benefit.

Councilmember Cunniff asked if it is fair to say there is a potential outcome of the tax liability increasing faster than inflation. Birks replied the debt is capped; therefore, if revenue is coming in more quickly than expected, the debt will be retired more quickly, and given that the debt can only be used for a given set of public improvements, there would not be a reason to issue more debt without amending the service plan.

Councilmember Cunniff asked if up to half of the units could be built prior to the construction of any affordable units. Deputy City Attorney Duval replied in the affirmative.

Councilmember Cunniff asked how the debt load only increased by \$30,000 when energy efficiency components are now being added to the affordable units. Mr. Sherrill replied some elements of the public benefits were removed or reduced.

Mayor Pro Tem Stephens made a motion, seconded by Councilmember Summers, to adopt Resolution 2019-101.

Councilmember Cunniff thanked staff and the developer for their work on the item; however, he stated he would not support the motion stating there is not a proportional benefit to the homeowners. He also noted Fort Collins has been able to finance and construct public improvements and infrastructure without the existence of metro districts meaning they are not a necessity for development in this part of the city. He stated this is not the only way to achieve the goal of adding affordable housing units and there is no guarantee these will be built. He stated the city's policies need to be reevaluated to include additional assurances.

Mayor Pro Tem Stephens stated that while metro districts are not necessary for development and there may be other policies to gain affordable housing, not other policies have been used and this project could provide much needed affordable and attainable units. She stated the project provides extraordinary benefits in terms of energy efficiency.

Councilmember Gorgol stated she feels the applicant heard her concerns about the energy efficiency being extended to the affordable units and noted that while other means of attaining affordable housing could occur, those policy decisions have yet to be made.

Councilmember Pignataro commended the additional work but stated she will not support the motion given the affordable housing segregation.

Councilmember Gutowsky expressed concern regarding notification provided to home buyers and stated the public benefits do not necessarily warrant the additional metro fees. She stated it is important to protect future homebuyers from entering into a situation that may place them in financial jeopardy.

Mayor Pro Tem Stephens requested details on the paperwork a homeowner would receive. Birks replied there are at least three distinct ways by which a home buyer would be made aware of their added property tax mill: at closing through the enhanced disclosure requirement, by reviewing the property tax bill, and on the Multiple Listing Service listing.

Councilmember Gutowsky stated it is very important that affordable housing be disbursed throughout a development.

Councilmember Summers expressed concern that opposing this would cause the city to miss out on energy efficient affordable housing that is within a market development. He commended the developer for returning with an enhanced proposal.

Mayor Troxell stated he would support the motion and commended the affordable and energy efficiency components of the proposal.

The vote on the motion was as follows: Yeas: Summers, Gorgol, Stephens and Troxell. Nays: Gutowsky, Pignataro and Cunniff.

THE MOTION CARRIED.

Mayor Pro Tem Stephens made a motion, seconded by Councilmember Gorgol, to postpone consideration of Resolution 2019-102 indefinitely. Yeas: Pignataro, Cunniff, Summers, Gorgol, Stephens, Troxell and Gutowsky. Nays: none.

THE MOTION CARRIED.

14. **First Reading of Ordinance No. 116, 2019, Approving a One-Time Payment of Accrued, Unused 2018 Paid Time Off Hours to the City Manager and City Attorney. (Defeated)**

The purpose of this item is to approve a one-time payment of accrued, unused 2018 paid time off hours to the City Manager and City Attorney.

Teresa Roche, Chief Human Resources Officer, stated the City Manager and City Attorney reached and exceeded their carryover for vacation in 2018 and were unable to use some of their 2018 holiday hours which do not carry over. The ad hoc direct compensation committee recommended that the Council consider this proposal.

Kathryn Dubiel stated it is the nature of high salaried positions that some vacation time will be lost. She suggested accrued leave benefits could be donated to benefit other members of the organization rather than be paid out as suggested. She outlined other things that could be done with this money in the community.

Mayor Troxell stated the vacation and holiday hours are benefits outlined with the contracts of the City Manager and City Attorney but were not addressed when compensation was considered. He noted Council has encouraged its three direct employees to utilize their vacation time.

Councilmember Summers asked how many hours can be carried over. Roche replied the annual carryover is 780 hours by contract for all three employees.

Councilmember Pignataro asked if this is the first year this has happened. Roche replied it has been cumulative; however, this is the first year she is aware of that the employees have reached their carryover cap and lost time.

Councilmember Pignataro asked if payment for these hours is part of the employees' contract. Roche replied in the affirmative.

Councilmember Pignataro asked if other City employees who do not use their vacation can be paid for the time. Roche replied employees are encouraged to take time off, but in rare instances when that cannot occur, a manager can ask for an exception to be made for carryover time.

Councilmember Pignataro asked if an exception to carry over time could be granted in this case. Roche replied the carryover could be extended in the contract, but the contract would need to be opened for discussion for that to occur.

Councilmember Pignataro asked if there is a flex policy for employees who work on holidays. Roche replied employees can bank holidays they work and take them at another time. Holiday and overtime pay are used for employees who are required to work on holidays.

Councilmember Gorgol requested clarification that employees cannot receive a payout. Roche replied that is correct.

Councilmember Gutowsky asked over how long a time period this has been accruing. City Manager Atteberry replied he has never reached the maximum and lost time in his 15 years as City Manager. He stated carrying over the time to next year could exacerbate the problem and explained the anomaly for 2018 was the formation of the broadband utility.

City Attorney Daggett stated this is the first time this has occurred for her as well; however, it did not take her as long to get there.

Councilmember Summers stated it is obvious these employees have to work on holiday Mondays when Council meets on Tuesday.

Mayor Pro Tem Stephens made a motion, seconded by Councilmember Summers, to adopt Ordinance No. 116, 2019, on First Reading.

Mayor Pro Tem Stephens noted this is an anomaly and stated it is important for people to take time off; however, there are times when that is impossible. She noted these employees are aware they do not work just 40 hours a week and suggested the possibility of Council taking time off during the summer to allow the same for staff.

Councilmember Pignataro stated she cannot support the motion and stated there are benefits and burdens to being in positions that are this high. She stated this is taxpayer money and there is no guarantee it will not happen again. She stated it is not fair to taxpayers or other City employees.

Councilmember Cunniff stated he greatly appreciates the work done by these employees, but he does not believe this is the proper solution. He stated the amount of payout in question is five times the total amount the seven Councilmembers get paid per year.

Councilmember Gorgol expressed concern about the precedent being set by this and about the message being sent to other employees of the City.

Councilmember Gutowsky stated constituents have expressed the overwhelming opinion that this payout would not be fair as other employees within the organization do not have the same opportunity.

Mayor Troxell stated he would support the motion as this is a contractual obligation the City has to these exceptional employees. He noted the extra work on broadband was an extension of the job descriptions.

RESULT:	DEFEATED [3 TO 4]
MOVER:	Kristin Stephens, District 4
SECONDER:	Ken Summers, District 3
AYES:	Summers, Stephens, Troxell
NAYS:	Pignataro, Gorgol, Gutowsky, Cunniff

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

- **OTHER BUSINESS**

Councilmember Cunniff asked what is being considered regarding affordable housing beyond the fee impact study that is one of the proposed mid-cycle budget offers. Deputy City Manager Mihelich replied all other affordable housing related items, such as accessory dwelling units, linkage fees, and others, will be coming before Council in the form of worksession items over the next several months.

- A. Possible consideration of the initiation of new ordinances and/or resolutions by Councilmembers

(Three or more individual Councilmembers may direct the City Manager and City Attorney to initiate and move forward with development and preparation of resolutions and ordinances not originating from the Council's Policy Agenda or initiated by staff.)

- **ADJOURNMENT**

Motion to Adjourn to 6:00 PM October 8th, 2019

Mayor Pro Tem Stephens made a motion, seconded by Councilmember Pignataro, to adjourn this meeting to 6:00 PM Tuesday, October 8th, 2019, to consider a proposed Executive Session and for such other business as may come before the Council.

RESULT:	ADOPTED [6 TO 0]
MOVER:	Kristin Stephens, District 4
SECONDER:	Julie Pignataro, District 2
AYES:	Pignataro, Gorgol, Gutowsky, Stephens, Troxell, Cunniff
AWAY:	Summers

The meeting adjourned at 10:17 PM.


Mayor

ATTEST:


City Clerk

