

AGENDA ITEM SUMMARY

July 7, 2015

City Council

STAFF

Darin Atteberry, City Manager
Carrie Daggett, City Attorney

SUBJECT

First Reading of Ordinance No. 083, 2015, Adopting a Policy Related to Council Action Initiating Ordinances and Resolutions and Making Related Clarifying Amendments to Section 2.32(d) of the Code of the City of Fort Collins.

EXECUTIVE SUMMARY

The purpose of this item is to adopt a policy relating to Council action initiating ordinances and resolutions and make related clarifying amendments to Section 2.32(d) of the City Code.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION

On December 17, 1996, the City Council adopted guidelines for initiating and developing Council ordinances and resolutions that originate either from the Council Policy Agenda, a Council committee, a City staff initiative or direction received from three or more Councilmembers. On October 21, 2003, in light of the reduced use of committees and other changes to Council practices, the Council updated those guidelines with the adoption of Resolution 2003-117.

At the Council's retreat in May, Council discussed the manner in which Council should direct the initiation of ordinances and resolutions. Council requested that the City Attorney and City Manager develop revisions to the current policy to be presented for Council's consideration.

Under the proposed new updated policy, as under the previous policy, upon Council's adoption of its policy priorities, strategic plans, budget and budget programs and initiatives, or other policies, programs, and the related goals and projects established by the Council (collectively referred to as the "Policy Agenda"), and without further direction from the Council, work on specific ordinances and resolutions implementing the Policy Agenda, will be commenced by City staff as coordinated and directed by the City Manager or City Attorney, as applicable.

The updated policy also continues the expectation that City staff proposals and suggestions for other ordinances and resolutions will be reviewed by the City Manager and City Attorney and presented at their discretion to the Council for consideration. The City Manager or City Attorney may initiate other ordinances and resolutions after consultation with the Mayor and the Mayor Pro Tem in connection with the preparation of the agenda for regular and special meetings of the City Council.

In contrast to the current policy which allows individual Councilmembers in some instances and less than a majority of Council generally to request that staff initiate work on ordinances and resolutions, the proposed new policy requires a majority vote for that action. This is based on the desires of the Council to adopt a clear

process. Based on discussion at the Council retreat, the proposed policy requires that initiation by Council of resolutions and ordinances not provided for in Council-adopted policies or programs shall be by formal action of the Council at a regular or special Council meeting and shall require the approval of a majority of the Councilmembers present and voting. Proposed City Code language changes would make clear that an action by the Council to direct City staff to develop and prepare a resolution or ordinance to be presented for later Council consideration is allowed under the "Other Business" portion of a Council meeting agenda, regardless of whether such action was specifically identified on the meeting agenda.

The Ordinance clarifies Section 2-32 of the City Code which describes the types of actions that in most instances must be identified on the agenda for a City Council meeting in order to move forward, to avoid any ambiguity related to the use of a Council vote to direct the City Manager or City Attorney to initiate work on an ordinance, resolution or revised version of the same.

The terms of this Ordinance are written to supersede and replace Resolution 2003-117.

ORDINANCE NO. 083, 2015
OF THE COUNCIL OF THE CITY OF FORT COLLINS
ADOPTING A POLICY RELATED TO COUNCIL ACTION INITIATING
ORDINANCES AND RESOLUTIONS AND
MAKING RELATED CLARIFYING AMENDMENTS TO SECTION 2-32(d)
OF THE CODE OF THE CITY OF FORT COLLINS

WHEREAS, on December 17, 1996, the City Council adopted certain guidelines for initiating and developing Council ordinances and resolutions that originate either from the Council Policy Agenda, a Council committee, a City staff initiative or direction received from three or more Councilmembers; and

WHEREAS, on October 21, 2003, in light of the reduced use of committees and other changes to Council practices, the Council updated those guidelines with the adoption of Resolution 2003-117; and

WHEREAS, upon Council's adoption of its policy priorities, strategic plans, budget and budget programs and initiatives, or other policies, programs, and the related goals and projects established by the Council (collectively referred to as the "Policy Agenda"), and without further direction from the Council, work on specific ordinances and resolutions implementing the Policy Agenda, will be commenced by City staff as coordinated and directed by the City Manager or City Attorney, as applicable; and

WHEREAS, City staff proposals and suggestions for other ordinances and resolutions will be reviewed by the City Manager and City Attorney and presented at their discretion to the Council for consideration; and

WHEREAS, the City Manager or City Attorney may initiate other ordinances and resolutions after consultation with the Mayor and the Mayor Pro Tem in connection with the preparation of the agenda for regular and special meetings of the City Council; and

WHEREAS, the Council desires to adopt a clear process by which the Council 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 adopted Policy Agenda or other adopted Council policy or program, or initiated by City staff; and

WHEREAS, it is the Council's desire that initiation by Council of resolutions and ordinances not provided for in Council-adopted policies or programs shall be by formal action of the Council at a regular or special Council meeting and shall require the approval of a majority of the Councilmembers present and voting; and

WHEREAS, it is the Council's intent that an action by the Council to direct City staff to develop and prepare a resolution or ordinance to be presented for later Council consideration

shall be allowed under the “Other Business” portion of a Council meeting agenda, regardless of whether such action was specifically identified on the meeting agenda; and

WHEREAS, in order to promote transparency and awareness in connection with the process for directing work in resolutions and ordinances, the Council has determined that it will be beneficial to provide for said process in the City Code; and

WHEREAS, the Council desires to clarify Section 2-32 of the Code of the City of Fort Collins (“City Code”), which describes the types of actions that in most instances must be identified on the agenda for a City Council meeting in order to move forward, to avoid any ambiguity related to the use of a Council vote to direct the City Manager or City Attorney to initiate work on an ordinance, resolution or revised version of the same; and

WHEREAS, it is the intent of the Council that the terms of this Ordinance shall supersede and replace Resolution 2003-117.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby repeals Resolution 2003-117 and in its place adopts the following as Council policy for the initiation of ordinances and resolutions (including the preparation and presentation of alternative or revised versions of ordinances and resolutions:

- a. Upon Council's adoption of its policy priorities, strategic plans, budget and budget programs and initiatives, or other policies, programs, and the related goals and projects established by the Council (collectively referred to as the “Policy Agenda”), and without further direction from the Council, work on specific ordinances and resolutions implementing the Policy Agenda, will be commenced by City staff as coordinated and directed by the City Manager or City Attorney, as applicable.
- b. City staff requests and suggestions for other ordinances and resolutions will be reviewed by the City Manager and City Attorney and presented at their discretion to the Council for consideration.
- c. The City Manager or City Attorney may initiate other ordinances and resolutions after consultation with the Mayor and the Mayor Pro Tem in connection with the preparation of the agenda for regular and special meetings of the Council.
- d. The Council 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 City staff, as described above, by formal action of the Council and approval of a majority of the Councilmembers present and voting at a regular or special

Council meeting, whether as part of a specifically identified agenda item or under the “Other Business” portion of the meeting agenda.

Section 2. That Section 2-32(d) of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 2-32. Open meetings/notice of meetings.

(a) Except as otherwise provided in § 2-31, all meetings of the City Council and all meetings of City Council committees shall be open to the public.

(b) Any meeting of the City Council at which any formal action could occur or at which a majority or quorum is in attendance, or is expected to be in attendance, shall be held only after full and timely notice to the public. For purposes of this Subsection, full and timely notice of regular and special Council meetings shall be accomplished by compliance with the provisions contained in Subsections 2-28(a) and 2-30(b) and § 2-34, as applicable.

(c) Meetings of City Council committees at which any formal action could occur shall be held only after full and timely notice to the public. For the purpose of these provisions, adopting a regular meeting date and filing a statement with the City Clerk shall be considered full and timely notice. In the case of meetings held on call or irregularly or in the event of any change to a regular meeting date on file with the City Clerk, the posting of a notice of the meeting pursuant to § 2-34 at least twenty-four (24) hours before the time of such meeting shall be full and timely notice.

(d) No ordinance, resolution, rule, regulation or other formal action of the City Council, ~~and no formal action~~ or of a City Council committee, **other than a vote on a procedural matter**, shall be valid unless taken or made at a meeting that meets the requirements of Subsections (a) and (b) above and unless public notice of the item acted upon has been provided as required in Subsection 2-30(b). Notwithstanding the foregoing and notwithstanding the notice requirements of Subsection 2-30(b):

(1) **Formal action may be taken by City Council or a Council committee to direct that the City Manager and City Attorney develop and prepare a specified resolution or ordinance for future City Council consideration regardless of whether the specific topic of the resolution or ordinance was identified in the published or posted meeting agenda;**

(2) **Formal action may be taken on an item for which no public notice has been given if the City Council or Council committee first finds, by majority vote, that postponing the item to a subsequent meeting would be contrary to the public interest; and**

(3) **For purposes of this Subsection (d), notice of a particular topic to be considered by the City Council or Council committee shall be sufficient to**

authorize any formal action by the City Council or Council committee reasonably related to that topic.

Introduced, considered favorably on first reading, and ordered published this 7th day of July, A.D. 2015, and to be presented for final passage on the 21st day of July, A.D. 2015.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 21st day of July, A.D. 2015.

Mayor

ATTEST:

City Clerk