

AGENDA ITEM SUMMARY

August 18, 2015

City Council

STAFF

Wanda Winkelmann, City Clerk

SUBJECT

Consideration and Approval of the Minutes of the July 7 and July 21, 2015 Regular Council Meetings and the July 14 and July 28, 2015 Adjourned Council Meetings.

EXECUTIVE SUMMARY

The purpose of this item is to approve the minutes from the July 7 and July 21, 2015 Regular Council meetings and the July 14 and July 28 Adjourned Council meetings.

ATTACHMENTS

1. July 7, 2015(PDF)
2. July 14, 2015 (PDF)
3. July 21, 2015 (PDF)
4. July 28, 2015 (PDF)

July 7, 2015

COUNCIL OF THE CITY OF FORT COLLINS, COLORADO

Council-Manager Form of Government

Regular Meeting – 6:00 PM

● ROLL CALL

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

Staff Present: Atteberry, Daggett, Nelson

● AGENDA REVIEW: CITY MANAGER

City Manager Atteberry noted the Mayor will be opening public hearings for two items on the Consent Calendar: Item No. 7, *Items Relating to the Renewal of the Cable Franchise Agreement with Comcast of California/Colorado LLC*, and Item No. 18, *Public Hearing and Resolution 2015-063 Adopting the 2015-2019 Five-Year Consolidated Plan Required by the U.S. Department of Housing and Urban Development*. Additionally, City Manager Atteberry noted Council received a copy of the affidavit of publication for the notice of public hearing on the proposed Cable Television Franchise Agreement which was published in the Coloradoan on June 14, 21 and 28.

City Manager Atteberry stated Item No. 15, *First Reading of Ordinance No. 071, 2015, Authorizing the Execution of an Intergovernmental Agreement Pertaining to Stormwater Utility Service Fees Due by Colorado State University for Services Provided by the City of Fort Collins*, has been 18 months in process and the IGA will require CSU to meet the requirements of the City regarding stormwater management and service fees adjusted to the unique circumstances of CSU. He commended the collaboration between the City and CSU regarding this item.

● CITIZEN PARTICIPATION

Karen Wagner, League of Women Voters, supported moving April elections to November of odd-numbered years, citing research indicating this would increase voter turn-out.

Michael Devereaux, Commission on Disability, discussed the importance of increasing the budget for updating Transfort bus stops to meet ADA standards.

Terry Schlichting, Commission on Disability, requested budget increases for updating Transfort bus stops to meet ADA standards and for Sunday service.

Kevin Paas stated the tanks at the Taft Hill Road asphalt plant would not be allowed under new floodplain regulations.

Sally Broste, League of Women Voters, supported moving April elections to November of odd-numbered years.

Sara Pitts, League of Women Voters, supported moving April elections to November of odd-numbered years, citing increased voter turn-out.

Bjorn Swenson expressed support for Item No. 12, *First Reading of Ordinance No. 077, 2015, Adopting New Bus Stop Design Standards and Guidelines*.

Rosemary Bergstrom, League of Women Voters, supported moving April elections to November of odd-numbered years.

Myles Crane and Joseph Leske, Human Relations Commission, announced an event regarding taking the stigma out of mental illness and thanked partners who have helped the Human Relations Commission in its efforts.

Jane Abram, League of Women Voters, supported moving April elections to November of odd-numbered years.

Marilee Boylan, ARC of Larimer County, supported updating Transfort bus stops at an increased rate to meet ADA standards.

Michael Ball supported updating Transfort bus stops to meet ADA standards.

Karen Hare expressed concern regarding the location and operations of the Taft Hill Road asphalt plant.

Chrissy Krumm, People First, supported updating Transfort bus stops to meet ADA standards.

Valerie Vogler expressed concern regarding the location of the asphalt plant.

Julian Wang, People First, supported updating Transfort bus stops to meet ADA standards.

Lynn Young, League of Women Voters, supported moving April elections to November of odd-numbered years, citing increased voter turn-out and decreased voter fatigue.

Kurt Lyons, Affordable Housing Board, supported decreasing requirements for and allowing accessory dwelling units in more zone districts in order to aid in affordable housing in the community.

Troy Jones, Affordable Housing Board, supported more flexibility with accessory dwelling units.

Stacey Poncelow requested City staff be directed to listen to neighbors and residents regarding development projects, specifically citing The Grove project.

Cheryl Distaso, Fort Collins Community Action Network, supported updating Transfort bus stops to meet ADA standards, the statements from the Citizens Against Asphalt Toxins, and commended the staff team working on cold-weather emergency shelters. Additionally, Ms. Distaso discussed Fort Collins Homeless Coalition's support for Deputy City Manager Mihelich's recommendations relating to homeless individuals.

Tatiana Martin thanked Councilmember Martinez for attending the Affordable Housing Board's meeting and showing interest in the topic.

Lynn Thompson, Fort Collins Homeless Coalition, commended recent staff work to end the criminalization of homelessness in the community and stated enforcement should be consistent with protecting the safety and well-being of homeless individuals.

Alexis Hmielak, FC Public Media, thanked Council for its work on the negotiations for the Comcast agreement and thanked Council for its support in the budgeting process.

Nancy Jackson, Disabled Resource Services Director, stated all of the City's bus stops should be modified to meet ADA standards as soon as possible, suggesting the stops should all be funded during this Council's tenure.

Hailey Bates supported comments made by the Citizens Against Asphalt Toxins group.

Jerry Welch, Disabled Resource Services, supported updating Transfort bus stops to meet ADA standards as soon as possible.

Richard Perry supported comments made by the Citizens Against Asphalt Toxins group in opposition to the Martin Marietta asphalt plant.

Brad Rhoda supported comments made by the Citizens Against Asphalt Toxins group in opposition to the Martin Marietta asphalt plant.

Bruce Lockhart opposed extending curbside recycling to the Harmony Mobile Home Park.

- **CITIZEN PARTICIPATION FOLLOW-UP**

Councilmember Martinez requested an update regarding the updating of Transfort bus stops. Kurt Ravenschlag, Transfort Director, discussed the varying deficiencies in stops around the city and stated, through the recent budgeting process, Transfort will now receive \$100,000 annually to upgrade stops, which will allow the improvement of 10 bus stops per year. Additionally, the advertising contractor is anticipated to improve 5 stops per year and stops are improved as development occurs, for an anticipated total of about 20 stops per year. He stated the City will continue to seek grants for additional improvements.

Councilmember Martinez asked how many stops were upgraded last year. Emma Belmont, Transit Planner, stated 9 stops were updated through grants and the 12 MAX stops were created.

Mayor Pro Tem Horak asked about Transfort's overall budget. Ravenschlag replied it is approximately \$14 million this year, primarily for operating expenses.

Mayor Pro Tem Horak noted choices have to be made and stated many stops without sidewalks are outside City limits and funding could be sought through the County.

Councilmember Martinez asked how the stops are prioritized for updating. Belmont replied the priorities are based on inaccessibility, existing ridership, proximity to youth, senior, disabled and low-income populations, and locations with high exposure to the elements.

Councilmember Martinez asked when routes will become fixed. Ravenschlag replied modified or new routes go through a two-year service development period with temporary stops, during which time investment is limited until it is proven to be a popular route.

Councilmember Campana suggested staff provide more detailed information regarding the funding for stop improvements. Ravenschlag noted the 20 stops per year figure is purely an estimate based on the average cost of improving a stop.

Mayor Pro Tem Horak stated no advertising should be allowed at non-compliant stops.

Councilmember Stephens thanked those who spoke regarding the ADA accessibility issue and asked if individuals from these various agencies are being consulted in terms of prioritizing stops for improvements. Ravenschlag replied in the affirmative.

Councilmember Overbeck supported updating bus stops to ADA standards and requested an update on the staff meeting with the Citizens Against Asphalt Toxins group. Deputy City Manager Mihelich noted the Asphalt Plant is not within City limits, nor is the City the permitting agent for the facility. However, he stated the City has developed a memorandum of understanding with Martin Marietta, which it is meeting in all areas except one. With regard to the possibility of the City no longer purchasing asphalt from the plant, Mihelich stated that is the only plant from which asphalt can be purchased to meet the needs of all the City's projects. He stated the life of the plant could be extended should the City opt to not purchase its asphalt from the plant. Mihelich discussed the improvements made to the plant and truck routes and stated the MOU requested the installation of carbon filters in its tanks, which remains in process and will further protect air quality.

Mayor Troxell commended the Transfort bus stop standards and guidelines and suggested a work session regarding the updating to ADA standards. Mayor Troxell also thanked the League of Women Voters for their comments and suggestions and thanked Deputy City Manager for his work regarding the asphalt plant.

Councilmember Cunniff thanked the League of Women Voters and supported ideas to increase voter turn-out. He requested a report regarding what type of monitoring of compliance with development agreements has occurred at The Grove.

Mayor Pro Tem Horak requested information regarding systematic inspections of those types of properties.

Councilmember Stephens supported the possibility of moving elections to increase voter turn-out.

Mayor Pro Tem Horak suggested moving with caution in terms of changing elections.

- **CONSENT CALENDAR**

Councilmember Cunniff withdrew Item Nos. 14 and 16, *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* and *Resolution 2015-061 Finding Substantial Compliance and Initiating Annexation Proceedings for the Kechter Farm Second Annexation*, from the Consent Calendar.

Mayor Troxell stated several items on the Consent Agenda are considered public hearings, per federal and City Charter requirements and to demonstrate the City's continued commitment to public participation, and announced those items: Item Nos. 7 and 18: *Items Relating to the*

Renewal of the Cable Franchise Agreement with Comcast of California/Colorado LLC, and Public Hearing and Resolution 2015-063 Adopting the 2015-2019 Five-Year Consolidated Plan Required by the U.S. Department of Housing and Urban Development. Mayor Troxell opened the public hearing on those items.

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

RESULT:	CONSENT CALENDAR ADOPTED [UNANIMOUS]
MOVER:	Gerry Horak, District 6
SECONDER:	Gino Campana, District 3
AYES:	Martinez, Stephens, Overbeck, Campana, Troxell, Cunniff, Horak

1. **Consideration and Approval of the Minutes of the June 2, 2015 Regular Council Meeting and the June 15, 2015 Special Council Meeting. (Adopted)**

The purpose of this item is to approve the minutes from the June 2, 2015 Regular Council meeting and the June 15, 2015 Special Council meeting.

2. **Second Reading of Ordinance No. 062, 2015, Appropriating Unanticipated Revenue Received from the Estate of Paul N. Gwyn in the Recreation Fund for the Senior Center and in the General Fund for the Poudre River Public Library District. (Adopted)**

This Ordinance, unanimously adopted on First Reading on June 2, 2015, appropriates two gifts the City has received from the Estate of Paul N. Gwyn. As required in Mr. Gwyn's will, the first gift is to be used for the exclusive benefit of the Fort Collins Senior Center in the amount of \$398,233. The second gift is to be used for the exclusive benefit of the Poudre River Library District (Library), also in the amount of \$398,233. The Ordinance has been amended to add language to more clearly acknowledge and agree that Mr. Gwyn's gifts, as expressly stated in his will, are required to be used for the exclusive benefit of the Senior Center and the Library.

3. **Second Reading of Ordinance No. 063, 2015, Appropriating Unanticipated Grant Revenue into the Transportation Services Fund for the Safe Routes to School Program. (Adopted)**

This Ordinance, unanimously adopted on First Reading on June 2, 2015, appropriates unbudgeted funds received through a grant for the Safe Routes to School program (part of the City's FC Moves Department). The Colorado Department of Transportation (CDOT) has awarded a \$55,038 grant for implementation of a new school-rotation schedule in Fort Collins schools. This school-rotation plan ensures that students in all public schools in Fort Collins receive bike-pedestrian safety education on a regular basis.

4. **Second Reading of Ordinance No. 064, 2015, Appropriating Unanticipated Revenue in the Capital Projects Fund for the Vine Drive and Shields Street Intersection Improvements Project and Transferring Appropriations to the Cultural Services and Facilities Fund for the Art in Public Places Program. (Adopted)**

This Ordinance, unanimously adopted on First Reading on June 2, 2015, appropriates additional funding into the Capital Project Fund for the Vine Drive and Shields Street Intersection Improvement Project. The City received a federally funded grant through the North Front Range Metropolitan Planning Organization (NFRMPO) for operational and safety improvements at the Vine Drive and Shields Street intersection, previously appropriated through Ordinance No. 076, 2012. Building on Basics (BOB) Intersection Funds and the Regional Road Impact Fee funds were used as matching funds for the grant. A construction cost estimate was developed in 2012. Due to escalating

construction costs, the current estimate has increased by approximately 15%. City and County staff have identified the Regional Road Impact Fee as a supplemental funding source for the project.

5. **Second Reading of Ordinance No. 065, 2015, Making Various Amendments to the Land Use Code. (Adopted)**

This Ordinance, unanimously adopted on First Reading on June 2, 2015, adopts a variety of revisions, clarifications and additions to the Land Use Code that are housekeeping and routine in nature and that have been identified since the last update in December 2014.

6. **Second Reading of Ordinance No. 066, 2015, Authorizing the Conveyance of a Permanent Access Easement on City Property to the City of Greeley. (Adopted)**

This Ordinance, unanimously adopted on First Reading on June 2, 2015, authorizes the conveyance of a permanent access easement to the City of Greeley along a dirt road on City Property known as the City Ditch. The City conveyed easements in 2014 to the City of Greeley ("Greeley") to facilitate its Greeley Bellvue Pipeline Project (the "Project") across a strip of property owned by the City's Utility Department located south of the Poudre River and north of Bingham Hill Road, known as the City Ditch property. At that time, Greeley was also in negotiations with the neighboring property owner for easements across their property, including an access easement in order for Greeley to access the Project site. Greeley has reached an agreement for possession of the easements needed from the neighboring property owner; however, as part of that agreement, Greeley agreed to reroute its planned access route to instead use the dirt road on the City Ditch property. As such, Greeley has requested a permanent access easement for use of the dirt road on the City Ditch property to access its pipeline site.

7. **Items Relating to the Renewal of the Cable Franchise Agreement with Comcast of California/Colorado LLC. (Adopted)**

- A. Public Hearing and Second Reading of Ordinance No. 067, 2015, Granting a Non-Exclusive Franchise to Comcast of California/Colorado, LLC and its Successors and Assigns for the Right to Make Reasonable Use of, and Erect, Construct, Operate and Maintain Through, the Public Rights-Of-Way, Easements and Other Public Property, Any Equipment Necessary and Appurtenant to the Operation and Maintenance of a Cable System and the Provision of Cable Services to Citizens Within the City.
- B. Second Reading of Ordinance No. 068, 2015, Establishing New City of Fort Collins Customer Service Standards for Cable Television.

Ordinance No. 067, 2015, renews the Cable Franchise Agreement from the City of Fort Collins to Comcast of California/Colorado LLC. Ordinance No. 068, 2015, establishes new Customer Service Standards - Cable Television. The current agreement will expire on July 31, 2015. Following extensive community outreach, staff and Council identified a number of priorities for the negotiation process. With the assistance of outside legal counsel, staff has negotiated a proposed 10-year agreement with Comcast that addresses the majority of these priorities. Both Ordinances were unanimously adopted on First Reading on June 2, 2015.

8. **Items Relating to the Appropriation of Federal Funds in the Community Development Block Grant (CDBG) and Home Investment Partnerships (HOME) Program Funds. (Adopted)**

- A. First Reading of Ordinance No. 072, 2015, Appropriating Unanticipated Revenue in the Community Development Block Grant Fund.
- B. First Reading of Ordinance No. 073, 2015, Appropriating Unanticipated Revenue in the HOME Investments Partnerships Fund.

The purpose of this item is to appropriate the 2015 CDBG and HOME grant funds and CDBG and HOME program income.

9. **First Reading of Ordinance No. 074, 2015, Authorizing the Transfer of Previously Appropriated Funds in the Storm Drainage Fund From Individual Stormwater Basin Capital Projects into the Stormwater Basin Improvement Capital Project. (Adopted)**

The purpose of this item is to transfer and consolidate previously appropriated funds from the nine individual stormwater basin capital projects and the Drainage System Replacement Project into the citywide Stormwater Basin Improvement Capital Project. All appropriations will continue to be used for stormwater basin management improvement projects, while improving transparency and flexibility to fund and construct the highest priority stormwater improvements that are required citywide.

10. **First Reading of Ordinance No. 075, 2015, Appropriating Prior Year Reserves in the Water Fund for 2015 Water Distribution Infrastructure Replacement Projects. (Adopted)**

The purpose of this item is to appropriate \$745,000 in prior year reserves to be used for water distribution system infrastructure replacement projects in 2015. The current funding shortfall is due to unanticipated projects and escalating construction costs. There are sufficient water plant investment fee revenues in reserve available and appropriately utilized for this purpose, particularly in light of unanticipated fee revenues received in 2015.

11. **Items Relating to Parking Enforcement at the Harmony Transfer Center. (Adopted)**

- A. Resolution 2015-060 Authorizing the Execution of an Intergovernmental Agreement Between the City and the Colorado Department of Transportation to Provide Parking Enforcement at the Harmony Transfer Center Park and Ride.
- B. First Reading of Ordinance No. 076, 2015, Appropriating Unanticipated Revenue into Parking Fund for Parking Enforcement Services at the Harmony Transfer Center.

The purpose of this item is for the City of Fort Collins to enter into a funding agreement with Colorado Department of Transportation (CDOT) to provide daily parking enforcement at the Harmony Transfer Center (Park and Ride). All costs for this parking enforcement are borne by CDOT. This agreement allows the City to provide parking enforcement for CDOT's new interregional bus service, "Bustang", once a notice to proceed is received from CDOT. No physical expansion of the Harmony Transfer Center Park and Ride is planned at this time.

12. **First Reading of Ordinance No. 077, 2015, Adopting New Bus Stop Design Standards and Guidelines. (Adopted)**

The purpose of this item is to update Transfort's Bus Stop Design Standards and Guidelines. The update integrates Americans with Disability Act (ADA) requirements and provides guidance for the distribution of passenger amenities at bus stops.

13. **First Reading of Ordinance No. 078, 2015, Making Certain Amendments to Chapter 26 of the Code of the City of Fort Collins Pertaining to Electric Rates, Fees and Other Charges Associated with the Time of Use Pilot Rate Study. (Adopted)**

The purpose of this item is to bring an ordinance forward to implement a residential time-of-use (TOU) pilot rate study. Staff presented information detailing the proposed TOU pilot study at the City Council work session on January 27, 2015, where an ad hoc committee was formed allowing Councilmen Campana and Cunniff to meet separately with City staff to discuss alternatives for TOU electric rates. Resolution 2015-022, creating the ad hoc committee, was signed by Mayor Weitkunat on February 3. The ad hoc meeting between Councilmen Campana and Cunniff and members of staff was held on February 24. Following this meeting, a memo was provided to Council summarizing the meeting discussions and outlined recommendations. The proposal for discussion outlines four

objectives of the TOU pilot study and includes implementing two parallel TOU rate structures for pre-selected residential customers for a 12-month period. Customers will have the option to opt-out. Staff is recommending a “best-bill” guarantee to encourage participation throughout the life of the study. A sampling of net metering solar photovoltaic (PV) customers will be included within each pilot rate group.

14. **First Reading of Ordinance No. 071, 2015, Authorizing the Execution of an Intergovernmental Agreement Pertaining to Stormwater Utility Service Fees Due by Colorado State University for Services Provided by the City of Fort Collins. (Adopted)**

The purpose of this item is to approve an intergovernmental agreement to establish a Stormwater Utility Service Agreement between the City of Fort Collins Utilities and Colorado State University (CSU). Under this IGA, CSU will agree to follow the standards, requirements, and conditions related to stormwater management set forth in Chapter 26 of the City Code. The IGA establishes a baseline of impervious area above which an additional Plant Investment Fee would be required for an increase of impervious surface. Finally, CSU will be required to pay monthly Stormwater Utility Fees adjusted by a rate formula that reflects the benefits to the City system by the additional detention provided on the CSU campus and the costs associated with the operation of CSU’s own Municipal Separate Storm Sewer System (MS4).

15. **Resolution 2015-062 Authorizing the Assignment of the City's Private Activity Bond Allocation for 2015 to the Fort Collins Housing Authority to Finance the Development and Rehabilitation of Affordable Housing Units at The Village on Cunningham Corner and The Village on Redwood. (Adopted)**

The purpose of this item is to assign the City's 2015 Private Activity Bond Allocation (PAB) in the amount of \$7,610,250 to the Fort Collins Housing Authority (FCHA) for the purpose of affordable housing development and rehabilitation. Specifically, the bond proceeds will be used to finance the rehabilitation of 284 affordable housing units located at the Villages on Cunningham Corner and the development of 72 new units located at the Village on Redwood. There have been no other requests to use the 2015 PAB allocation.

16. **Public Hearing and Resolution 2015-063 Adopting the 2015-2019 Five-Year Consolidated Plan Required by the U.S. Department of Housing and Urban Development. (Adopted)**

The purpose of this item is to hold a required public hearing and adopt the 2015-2019 Five-Year Consolidated Plan. The Plan is required by the US Department of Housing and Urban Development (HUD), since the City is an annual recipient of federal entitlement funds for affordable housing, human services, and community development activities. The document outlines a high level community snapshot of affordable housing and human services, assesses needs and gaps, and sets courses of action and priorities for achieving goals in these areas. The Plan is designed to complement and enhance current City documents, policies and priorities in these arenas. The six major goals outlined in the document are:

- Increase the supply of affordable rental housing (includes housing for special sub-populations such as seniors and persons with disabilities)
- Increase housing opportunities for persons experiencing homelessness
- Provide programs for homelessness prevention
- Preserve existing affordable housing inventory
- Provide assistance for programs that support affordable homeownership
- Supportive [human] services to improve living conditions

17. **Resolution 2015-064 Approving an Exception to the Use of a Competitive Purchasing Process for Design and Construction of a Hybrid DC Power Microgrid Electrical System for the New Utilities Administration Building with Positive Energies LLC. (Adopted)**

The purpose of the item is to request an exception to the competitive purchasing process for the contracting of design and construction services for a hybrid DC power electrical system with Positive Energies, LLC (Pos-En), as the alternative is contrary to the City's best interests. The City has awarded the contract for design and construction of the new 37,500 SF Utilities Administration Building (UAB) at 222 LaPorte Avenue to Adolphson and Peterson in accordance with the City competitive purchasing process. The project is pursuing a transformational and innovative electrical systems approach using a Hybrid DC Power Microgrid. The alternative electrical design has been selected for implementation. Pos-En has provided a not-to-exceed price for a complete building electrical system that is lower in cost than the traditional AC (alternating current) power approach. Operation Services, Utilities and Purchasing staff have determined that using the City's competitive purchasing process would substantially increase the project schedule and technical risks for this innovative power system.

18. **Resolution 2015-065 Making Appointments to the Economic Advisory Commission, Golf Board and Transportation Board. (Adopted)**

The purpose of this item is to appoint Kristin Owens to the Economic Advisory Commission, John Lyttle to the Golf Board and Tim Sutton to the Transportation Board to fulfill vacancies created through resignations.

● **END CONSENT**

Mayor Troxell closed the public hearing on Item Nos. 7 and 18: *Items Relating to the Renewal of the Cable Franchise Agreement with Comcast of California/Colorado LLC, and Public Hearing and Resolution 2015-063 Adopting the 2015-2019 Five-Year Consolidated Plan Required by the U.S. Department of Housing and Urban Development.*

● **CONSENT CALENDAR FOLLOW-UP**

Councilmember Cunniff requested a memo regarding assurance the purpose is compatible regarding Item No. 9, *First Reading of Ordinance No. 074, 2015, Authorizing the Transfer of Previously Appropriated Funds in the Storm Drainage Fund From Individual Stormwater Basin Capital Projects into the Stormwater Basin Improvement Capital Project.* Additionally, he requested a memo regarding the management of change requests with regard to Item No. 19, *Resolution 2015-064 Approving an Exception to the Use of a Competitive Purchasing Process for Design and Construction of a Hybrid DC Power Microgrid Electrical System for the New Utilities Administration Building with Positive Energies LLC.*

Councilmember Martinez supported Item No. 17, *Resolution 2015-062 Authorizing the Assignment of the City's Private Activity Bond Allocation for 2015 to the Fort Collins Housing Authority to Finance the Development and Rehabilitation of Affordable Housing Units at The Village on Cunningham Corner and The Village on Redwood,* as being a positive step for affordable housing.

● **STAFF REPORTS**

Deputy City Manager Mihelich stated a preliminary draft agreement with Homeward 2020 to take a leadership role regarding homelessness within the community has been developed.

Vanessa Finley, Homeward 2020, stated Homeward 2020 can be seen as a hub for community conversations around strategies which can make homelessness rare, short-lived and non-recurring. Additionally, she discussed the formation of a homeless management information system and announced quarterly community gatherings on the topic.

Jackie Kozak Thiel, Chief Sustainability Officer, discussed the plan moving forward in terms of work session and Council meeting dates and topics.

- **COUNCILMEMBER REPORTS**

Councilmember Martinez provided a video shown at the Downtown Development Authority meeting regarding the Woodward Governor project. Additionally, he reported on his attendance at the Affordable Housing Board and Commission on Disability meetings.

Councilmember Cunniff reported on the Fort Collins Housing Authority Board meeting.

Mayor Troxell reported on his attendance at the Smithsonian exhibit featuring Fort Collins as a Place of Innovation for 2010 and forward. Additionally, he reported on the recognition of Lee Martinez on the anniversary of Lee Martinez Park.

Mayor Pro Tem Horak reported on the re-opening of the Poudre trail throughout the city.

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

19. **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. (Postponed to July 21, 2015)**

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.

Councilmember Cunniff stated his memory of the retreat involved retaining the rule of three to allow three Councilmembers to request legislation to come before Council only at regular business meetings and expressed concern this item does not match that situation.

Eric Sutherland supported the intent of this item but expressed concern regarding the requirement of four Council votes to request legislation to come before Council.

City Attorney Daggett stated she may have misunderstood Council's retreat discussion as her interpretation was that Council desired a majority vote in order to request legislation be brought forth. She stated the language would need to be amended if that is not the case.

Councilmember Cunniff made a motion, seconded by Councilmember Overbeck, to postpone consideration of this item to the July 21, 2015 regular meeting in order to draft language reflecting the rule of three.

Councilmember Campana stated he remembered the conversation as City Attorney Daggett; however, he did not have a problem with the language changes.

RESULT:	POSTPONED TO JULY 21, 2015 [UNANIMOUS]
MOVER:	Ross Cunniff, District 5
SECONDER:	Bob Overbeck, District 1
AYES:	Martinez, Stephens, Overbeck, Campana, Troxell, Cunniff, Horak

20. **Resolution 2015-061 Finding Substantial Compliance and Initiating Annexation Proceedings for the Kechter Farm Second Annexation. (Adopted)**

The purpose of this item is to annex the second phase of Kechter Farm. The applicants, Toll CO 1 LLC, the property owners, have submitted a written petition requesting annexation of 78.58 acres located on the west side of Ziegler Road, south of Kechter Road and north of Fossil Creek Reservoir. Trilby Road bisects the site. The requested zoning for this annexation is L-M-N, Low Density Mixed-Use Neighborhood (37.48 acres) and U-E, Urban Estate (41.1 acres). The property is located within the Fossil Creek Reservoir Area Plan. In accordance with the Intergovernmental Agreement for the Fort Collins Growth Management Area with Larimer County, adopted in 1999, properties within this subarea are to receive their land use approval in the County and are then to be annexed prior to the issuance of building permits. Kechter Farm First Annexation, 88.21 acres, was annexed in May 2014. The Second Annexation consists of 78.58 acres.

Councilmember Cunniff questioned if the location of the annexation was within the buffer zone of the Fossil Creek Reservoir. Ted Shepard, Chief Planner, stated this Resolution is initiating the annexation. The annexation has been approved by Larimer County and meets all requirements of the annexation IGA with the County. The development is in full compliance with the Land Use Code and the IGA concerning Fossil Creek Reservoir Area.

Councilmember Cunniff made a motion, seconded by Councilmember Martinez, to adopt Resolution 2015-061.

RESULT:	RESOLUTION 2015-061 ADOPTED [UNANIMOUS]
MOVER:	Ross Cunniff, District 5
SECONDER:	Ray Martinez, District 2
AYES:	Martinez, Stephens, Overbeck, Campana, Troxell, Cunniff, Horak

● **DISCUSSION ITEMS**

21. **Resolution 2015-066 Adopting Council Retreat Priorities for 2015-2017. (Adopted as Amended)**

The purpose of this item is to adopt the City Council Priorities as identified during the May 2015 retreat.

City Manager Atteberry stated one of the primary roles of Council is to establish goals and priorities for staff to operationalize in a timely manner and this Resolution would adopt the priorities that have been identified at a recent Council retreat.

Councilmember Overbeck requested and received assurance air quality enforcement would include black smoke from trucks and rolling coal.

Mayor Troxell asked about the item involving Hughes Stadium. City Manager Atteberry replied a Stadium Advisory Group will begin in August and stated the priorities could be adjusted to include information regarding the new stadium as well as Hughes.

Councilmember Martinez asked why the gentrification study is considered a high priority when the study is almost complete. Deputy City Manager Mihelich replied various studies and surveys are being conducted in order to establish a baseline regarding gentrification in the BAVA neighborhoods; however, a full study beyond that is premature at this point.

Councilmember Martinez made a motion, seconded by Councilmember Campana, to adopt Resolution 2015-066, with the exclusion of paragraph C under ‘gentrification study’.

Councilmember Campana noted this item is already in progress and other such items were not included on the priority list.

Councilmember Cunniff requested a friendly amendment to section 4D to include the following “and remediation of CSU stadium neighborhood impacts.” Councilmembers Martinez and Campana accepted the friendly amendment.

Mayor Pro Tem Horak noted the Hughes Stadium site is currently outside the Growth Management Area.

Councilmember Cunniff commended the process regarding this Resolution.

Mayor Troxell thanked staff for efforts at the retreat and commended the facilitation of the retreat.

RESULT:	RESOLUTION 2015-066 ADOPTED AS AMENDED [UNANIMOUS]
MOVER:	Ray Martinez, District 2
SECONDER:	Gino Campana, District 3
AYES:	Martinez, Stephens, Overbeck, Campana, Troxell, Cunniff, Horak

22. **Second Reading of Ordinance 070, 2015, Appropriating Prior Year Reserves in the General Fund for Transfer to the Capital Projects Fund for the Lincoln Corridor Improvements Project and Transferring Appropriations to the Cultural Services and Facilities Fund for the Art in Public Places Program. (Adopted on Second Reading)**

This Ordinance, adopted on First Reading on June 2, 2015, by a vote of 6-1 (Nays: Cunniff) appropriates the remaining funding for design, right of way acquisition and construction of the Lincoln Avenue Improvements from 1st Street to Lemay Avenue. The scope of the proposed improvements is based on the concepts approved in the Lincoln Corridor Plan with a reduced level of enhancement consistent with the proposed budget. Based on the Lincoln Corridor Plan estimated cost of \$19.3 million for the entire project from Jefferson to Lemay, the cost to improve the section from 1st Street to Lemay Avenue is \$8 million. With the reduced level of enhancements currently approved, the project is estimated to cost \$6.5 million. This Ordinance appropriates \$1,968,119 from General Fund Reserves.

Devin Herning questioned the urgency surrounding the Lincoln corridor improvements, citing relatively low traffic volume. He stated other roadways, such as Harmony and Kechter, have lower ratings and higher traffic volume.

Eric Sutherland suggested this project should be funded by the businesses it benefits and claimed the BOB 2.0 ballot language was misleading.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Overbeck, to adopt Ordinance No. 070, 2015, on Second Reading.

Mayor Pro Tem Horak stated this corridor has no sidewalks or bike lanes and hosts many commercial trucks.

Councilmember Cunniff expressed concern regarding the possibility there are other priorities on which the reserves could be spent and stated he would have preferred part of the funding to come from the General Fund and from special districts.

Councilmember Martinez stated this is not hurried, but timely, and noted this funding has been approved by voters.

Councilmember Cunniff argued voters only requested a bridge. City Manager Atteberry replied voters have approved the \$5 million bridge portion of the entire project.

Councilmember Stephens cited the public supports the project.

RESULT:	ORDINANCE NO. 070, 2015, ADOPTED ON SECOND READING [6 TO 1]
MOVER:	Gerry Horak, District 6
SECONDER:	Bob Overbeck, District 1
AYES:	Martinez, Stephens, Overbeck, Campana, Troxell, Horak
NAYS:	Cunniff

23. **Items Relating to the Addition of Permitted Use Amended Process. (Options 1 and 2 Adopted on First Reading)**

A. *First Reading of Ordinance No. 079, 2015, Imposing a Moratorium Upon the Application or Effectiveness of Section 1.3.4(D) of the Land Use Code Pertaining to the Addition of Permitted Uses by the Planning and Zoning Board. (OPTION 1)*

or

B. *First Reading of Ordinance No. 080, 2015, Amending Section 1.3.4 of the Land Use Code Pertaining to the Addition of Permitted Uses in Nine Zone Districts. (OPTION 2 - Residential Zones Only)*

or

C. *First Reading of Ordinance No. 081, 2015, Amending Section 1.3.4 of the Land Use Code Pertaining to the Addition of Permitted Uses in All Zone Districts. (OPTION 3 – All Zones)*

The purpose of this item is to amend the Land Use Code to require City Council review of Addition of Permitted Use (APU) applications in nine residential zone districts or in all zone districts or, alternatively, enact a moratorium on such applications for a period no longer than five years.

Cameron Gloss, Planning Manager, stated Council requested staff return with possible options related to a moratorium associated with the addition of permitted use (APU) provisions of the Land Use Code. He stated the first option is a five year moratorium on APU applications citywide, the timing of which roughly coincides with the completion of an update to City Plan. The second option requires that nine of the predominantly residential zone districts be taken out

of consideration for an APU, and the final option would require Council review of APU applications citywide.

Gloss stated staff is not recommending any of the options be pursued by Council; however, if Council finds a Land Use Code change is warranted, staff recommends Council review APU applications within residential zone districts, with the exception of the MMN zone district, which does not typically include single-family housing and surrounds high-intensity activity centers. Gloss stated the Planning and Zoning Board recommended unanimously to retain the APU ordinance as it exists.

Kevin Jones, Fort Collins Area Chamber of Commerce, opposed any changes to Section 1.3.4 of the Land Use Code, stating the APU is an important tool that allows for creativity and flexibility in community design. He stated the APU process is already rigorous and includes an option for appeal by citizens and Council.

Eric Smith commended the City's efforts to involve citizens and stated the current APU process places too much burden on affected parties and takes away consistency and predictability.

Linda Ripley opposed changes to the APU process, citing its advantages in neighborhood protection over zoning changes.

Bill Whitley supported eliminating the APU process as it is a danger to neighborhoods and the cohesiveness of the city's character.

Cynthia Reffler supported the APU process as aiding in the creation of affordable housing.

Heather Griffith, Young People's Learning Center, opposed changes to the APU process stating the existing process is quite rigorous.

Nick Haas discussed changes that have been made to the APU process and stated it has worked successfully.

Trinity Oberndorf opposed a moratorium on the APU process, citing the need for variation and flexibility.

Paul Patterson stated there is the potential for misuse of the APU process and supported a potentially shorter moratorium as a compromise.

Paul Sorenson opposed changes to the APU process.

Jennifer Petrick opposed changes to the APU process.

City Attorney Daggett recommended Council take some type of action on each of the Ordinances.

Councilmember Campana made a motion, seconded by Councilmember Martinez, to postpone indefinitely Ordinance No. 079, 2015, on First Reading.

Mayor Pro Tem Horak stated he would support a 90 day moratorium, or the enactment of Ordinance No. 080, 2015.

Councilmembers Campana and Martinez withdrew their motion.

Councilmember Campana made a motion, seconded by Councilmember Martinez, to adopt Ordinance No. 080, 2015, on First Reading, excluding the MMN zone district, with the addition of a moratorium until this Ordinance would take effect.

Councilmember Campana stated he would oppose changes to the APU process; however, he stated this could be a compromise.

Councilmember Cunniff made a motion to amend, seconded by Mayor Pro Tem Horak, to hear Second Reading on September 1st, 2015.

Councilmember Campana expressed concern regarding the resulting length of the moratorium.

Councilmember Cunniff stated the extra time would allow for community outreach and public input.

Mayor Pro Tem Horak asked how many APU applications have been submitted or are pending. Gloss replied there are four applications known by staff which have recently been submitted or are going to be submitted, none of which have a specific date before the Planning and Zoning Board.

Councilmember Cunniff and Mayor Pro Tem Horak withdrew the motion to amend.

Councilmember Campana amended his motion, seconded by Councilmember Martinez to adopt Ordinance No. 080, 2015, on First Reading, excluding the MMN zone district.

Councilmember Martinez commended the work of the Planning and Zoning Board on this item and noted he would oppose changes to the APU process; however, he accepted the current motion as a compromise.

Mayor Troxell stated he would oppose changes to the APU process; however, he would support the current motion, stating that support does not decrease his support for the Planning and Zoning Board.

City Attorney Daggett showed the changes to the Ordinance per the motion's amendments.

RESULT:	ORDINANCE NO. 080, 2015, ADOPTED ON FIRST READING [UNANIMOUS]
MOVER:	Gino Campana, District 3
SECONDER:	Ray Martinez, District 2
AYES:	Martinez, Stephens, Overbeck, Campana, Troxell, Cunniff, Horak

Councilmember Cunniff made a motion, seconded by Councilmember Overbeck, to postpone indefinitely Ordinance No. 081, 2015.

RESULT:	ORDINANCE NO. 081, 2015 POSTPONED INDEFINITELY [UNANIMOUS]
MOVER:	Ross Cunniff, District 5
SECONDER:	Bob Overbeck, District 1
AYES:	Martinez, Stephens, Overbeck, Campana, Troxell, Cunniff, Horak

Mayor Pro Tem Horak made a motion, seconded by Councilmember Stephens, to adopt Ordinance No. 079, 2015, on First Reading, changing the five-year moratorium to 90 days, or until the effective date of Ordinance No. 080, and eliminating the MMN zone.

Councilmember Cunniff stated this moratorium would be useful.

City Attorney Daggett reviewed the Ordinance language changes.

Councilmember Campana stated he would not support the moratorium motion as there is no emergency or crisis situation and therefore no reason to delay the issue further.

Mayor Troxell stated he would not support the moratorium motion.

RESULT:	ORDINANCE NO. 079, 2015 ADOPTED AS AMENDED ON FIRST READING [5-2]
MOVER:	Gerry Horak, District 6
SECONDER:	Kristin Stephens, District 4
AYES:	Martinez, Stephens, Overbeck, Cunniff, Horak
NAYS:	Campana, Troxell

24. **First Reading of Ordinance No. 082, 2015, Amending the Land Use Code with Regard to City Development Projects. (Adopted on First Reading)**

The purpose of this item is to amend the Land Use Code to require any development review project in which the City is an applicant to be reviewed by the Planning and Zoning Board (P&Z) and eliminate formal appeals to the City Council while allowing a Council override of a P&Z decision.

Cameron Gloss, Planning Manager, stated City-sponsored projects go through the same development review process as any other in the city, and are therefore subject to appeal to Council. Because Council sets the City's budget and due to procedural issues related to the perception of ex parte contacts, staff was directed to develop an alternate process rather than an appeal to Council. Gloss stated this would only apply to projects in which the City is the applicant and would not allow an appeal of the Planning and Zoning Board decision. Council may initiate the special review within 14 days of the Planning and Zoning Board decision and can then take action to overturn or modify the decision of the Board.

Eric Sutherland discussed ex parte communication.

Councilmember Cunniff made a motion, seconded by Councilmember Campana, to adopt Ordinance No. 082, 2015, on First Reading.

Councilmember Cunniff stated this change seems to be the most appropriate way to move forward.

Mayor Pro Tem Horak supported the motion.

Mayor Troxell supported the motion as a compromise of sorts regarding City project.

RESULT:	ORDINANCE NO. 082, 2015, ADOPTED ON FIRST READING [UNANIMOUS]
MOVER:	Ross Cunniff, District 5
SECONDER:	Gino Campana, District 3
AYES:	Martinez, Stephens, Overbeck, Campana, Troxell, Cunniff, Horak

● **OTHER BUSINESS**

Councilmember Cunniff asked if Council would accept an option to construct and operate a recycling facility as part of the mid-cycle budget options.

Mayor Pro Tem Horak stated options should be considered.

Councilmembers Cunniff and Stephens stated they would like the recycling facility to be considered as an option.

● **ADJOURNMENT**

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to adjourn to 4:45 p.m., Tuesday, July 14, 2015, for a possible executive session and any other business as may come before the City Council. Yeas: Troxell, Campana, Cunniff, Stephens, Overbeck, Martinez and Horak. Nays: none.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Gerry Horak, District 6
SECONDER:	Ross Cunniff, District 5
AYES:	Martinez, Stephens, Overbeck, Campana, Troxell, Cunniff, Horak

The meeting adjourned at 9:40 PM.

Mayor

ATTEST:

City Clerk

July 14, 2015

COUNCIL OF THE CITY OF FORT COLLINS, COLORADO

Council-Manager Form of Government

Adjourned Meeting – 4:45 PM

● ROLL CALL

PRESENT: Stephens, Overbeck, Campana, Cunniff, Horak
ABSENT: Martinez
AWAY: Troxell

Staff present: Atteberry, Daggett, Nelson

Executive Session Authorized.

Councilmember Campana made a motion, seconded by Councilmember Cunniff, to go into executive session for the purpose of meeting with City staff to discuss real property acquisitions for the Natural Areas Program as permitted under Section 2-3(a)(3) of the City Code and Colorado Revised Statutes Section 24-6-402(4)(a).

RESULT:	ADOPTED [5 TO 0]
MOVER:	Gino Campana, District 3
SECONDER:	Ross Cunniff, District 5
AYES:	Stephens, Overbeck, Campana, Cunniff, Horak
ABSENT:	Martinez
AWAY:	Troxell

(Secretary's note: Mayor Troxell joined the executive session at 4:50 p.m.)

● ADJOURNMENT

The meeting adjourned at 5:30 PM.

Mayor

ATTEST:

City Clerk

July 21, 2015

COUNCIL OF THE CITY OF FORT COLLINS, COLORADO

Council-Manager Form of Government

Regular Meeting – 6:00 PM

● **ROLL CALL**

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

Staff Present: Atteberry, Daggett, Knoll

● **AGENDA REVIEW: CITY MANAGER**

City Manager Atteberry withdrew Item No. 22, *First Reading of Ordinance No. 090, 2015, Amending Chapter 23 of the Code of the City of Fort Collins with Regards to Facility and Property Naming Policies*, for additional staff work and language clarification. Additionally, he stated bus stops will be more aggressively updated to meet ADA standards through a variety of funding sources.

● **CITIZEN PARTICIPATION**

Eric Sutherland discussed the Boxelder Stormwater Authority and stated the project was not worth doing to begin with.

Aaron McGrew thanked Councilmembers for their service and work.

Scott Barak discussed the Colorado State University's purchase of aborted fetal body parts from Planned Parenthood.

● **CITIZEN PARTICIPATION FOLLOW-UP**

Councilmember Martinez opposed Mr. Sutherland's criticism of staff and Council.

Mayor Pro Tem Horak discussed the Boxelder Stormwater Authority, stating the project is financially feasible. The project still makes sense for the City of Fort Collins; its benefits outweigh its costs.

● **CONSENT CALENDAR**

Eric Sutherland withdrew Items #3, *Second Reading of Ordinance No. 074, 2015, Authorizing the Transfer of Previously Appropriated Funds in the Storm Drainage Fund From Individual Stormwater Basin Capital Projects into the Stormwater Basin Improvement Capital Project*, Item #7, *Second Reading of Ordinance No. 078, 2015, Making Certain Amendments to Chapter 26 of the Code of the City of Fort Collins Pertaining to Electric Rates, Fees and Other Charges Associated with the Time of Use Pilot Rate Study*, Item #8, *Second Reading of Ordinance No. 082, 2015, Amending the Land Use Code with Regard to City Development Projects*, and Item #17, *Resolution 2015-069 Approving the 2015 Certification to the Larimer County Assessor Pursuant to C.R.S. Section 31-25-807(3)(a)(IV)(B) for the Downtown Development Authority Property Tax Increment*, from the Consent Calendar.

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

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Gerry Horak, District 6
SECONDER:	Ray Martinez, District 2
AYES:	Martinez, Stephens, Overbeck, Campana, Troxell, Cunniff, Horak

1. **Second Reading of Ordinance No. 071, 2015, Authorizing the Execution of an Intergovernmental Agreement Pertaining to Stormwater Utility Service Fees Due by Colorado State University for Services Provided by the City of Fort Collins. (Adopted)**

This Ordinance, unanimously adopted on First Reading on July 7, 2015, approves an intergovernmental agreement to establish a Stormwater Utility Service Agreement between the City of Fort Collins Utilities and Colorado State University (CSU). Under this IGA, CSU will agree to follow the standards, requirements, and conditions related to stormwater management set forth in Chapter 26 of the City Code. The IGA establishes a baseline of impervious area above which an additional Plant Investment Fee would be required for an increase of impervious surface. Finally, CSU will be required to pay monthly Stormwater Utility Fees adjusted by a rate formula that reflects the benefits to the City system by the additional detention provided on the CSU campus and the costs associated with the operation of CSU's own Municipal Separate Storm Sewer System (MS4).

2. **Items Relating to the Appropriation of Federal Funds in the Community Development Block Grant (CDBG) and Home Investment Partnerships (HOME) Program Funds. (Adopted)**

- A. Second Reading of Ordinance No. 072, 2015, Appropriating Unanticipated Revenue in the Community Development Block Grant Fund.
- B. Second Reading of Ordinance No. 073, 2015, Appropriating Unanticipated Revenue in the HOME Investments Partnerships Fund.

These Ordinances, unanimously adopted on First Reading on July 7, 2015, appropriate the 2015 CDBG and HOME grant funds and CDBG and HOME program income.

3. **Second Reading of Ordinance No. 075, 2015, Appropriating Prior Year Reserves in the Water Fund for 2015 Water Distribution Infrastructure Replacement Projects. (Adopted)**

This Ordinance, unanimously adopted on First Reading on July 7, 2015, appropriates \$745,000 in prior year reserves to be used for water distribution system infrastructure replacement projects in 2015. The current funding shortfall is due to unanticipated projects and escalating construction costs. There are sufficient water plant investment fee revenues in reserve available and appropriately utilized for this purpose, particularly in light of unanticipated fee revenues received in 2015.

4. **Second Reading of Ordinance No. 076, 2015, Appropriating Unanticipated Revenue into Parking Fund for Parking Enforcement Services at the Harmony Transfer Center. (Adopted)**

This Ordinance, unanimously adopted on First Reading on July 7, 2015, appropriates funds received from the Colorado Department of Transportation (CDOT) to provide daily parking enforcement at the Harmony Transfer Center (Park and Ride). All costs for this parking enforcement are borne by CDOT. The City will provide parking enforcement for CDOT's new interregional bus service, "Bustang", once a notice to proceed is received from CDOT. No physical expansion of the Harmony Transfer Center Park and Ride is planned at this time.

5. **Second Reading of Ordinance No. 077, 2015, Adopting New Bus Stop Design Standards and Guidelines. (Adopted)**

This Ordinance, unanimously adopted on First Reading on July 7, 2015, updates Transfort's Bus Stop Design Standards and Guidelines. The update integrates Americans with Disability Act (ADA) requirements and provides guidance for the distribution of passenger amenities at bus stops.

6. **First Reading of Ordinance No. 084, 2015, Appropriating Prior Year Reserves in the Capital Projects Fund to Award Landscaping Contracts for the Building on Basics (BOB) Intersection Improvements Project, Specifically for the Horsetooth Road and Timberline Road Intersection and the Vine Drive and Shields Street Intersection, and Transferring Appropriations to the Cultural Services and Facilities Fund for the Art in Public Places Program. (Adopted)**

The purpose of this item is to appropriate \$700,000 of available Building on Basics funds into the Building on Basics Intersection Improvements Project to award landscaping and irrigation contracts for the Horsetooth / Timberline and Vine / Shields Intersection Improvements Projects. Initial project budgets for these two intersections were established in 2012. Both of these intersections are currently under construction. Between conceptual planning in 2012 and construction in 2015, landscaping and irrigation construction prices have risen between 30% and 50%. This appropriation will allow staff to make the projects whole by awarding and constructing the landscape and irrigation packages for both intersections.

7. **First Reading of Ordinance No. 085, 2015, Authorizing the Transfer of Previously Appropriated Funds in the Wastewater Fund from the Collection System Replacement Project to the Water Reclamation Replacement Project. (Adopted)**

The purpose of this item is to transfer \$350,000 in the Wastewater Fund from the Collection System Replacement Project to the Water Reclamation Replacement Project. This transfer would be used for unanticipated equipment replacement at the Drake Water Reclamation Facility.

8. **First Reading of Ordinance No. 086, 2015, Amending Chapters 17 and 23 of the Code of the City of Fort Collins to Create an Exception for the Possession and Discharge of Firearms for a City-Managed Pronghorn Hunting Program on Soapstone Prairie Natural Area. (Adopted)**

The purpose of this item is to propose amendments to the City Code to facilitate a limited pronghorn hunting season at Soapstone Prairie Natural Area (SPNA). The Soapstone Prairie Natural Area Management Plan (2007) identified pronghorn hunting as a potential recreation activity at SPNA. Over the last few years, Natural Areas has worked in collaboration with Colorado Parks and Wildlife (CPW) and Larimer County's Natural Resources Department to explore and develop a potential approach to pronghorn hunting on Soapstone Prairie Natural Area (SPNA) and the County's Red Mountain Open Space (RMOS) that could begin in 2016. Hunting access to SPNA and RMOS would provide an additional recreation opportunity to the community, assist CPW in maintaining pronghorn population objectives, and support the respective management plans of the properties. Changes to City Code are necessary to allow for the carry and discharge of firearms when participating in the hunting season on City-owned property. The specific program parameters will be adopted administratively by the Natural Areas Department.

9. **First Reading of Ordinance No. 087, 2015, Vacating Right of Way as Dedicated on the Timbervine Plat. (Adopted)**

The purpose of this item is to vacate right-of-way that was dedicated on the Timberline plat located west of Timberline Road and north of International Boulevard. Lager Street, Lambic Street, Bock Street, Macinac Street, Saison Street, Stout Street, Dunkel Street, and Mexico Way right-of-way is no longer necessary or desirable to retain for street purposes. The property is proposed to be replatted as Timbervine Second Filing, which was approved through an Administrative Hearing on June 18, 2015.

10. **First Reading of Ordinance No. 088, 2015, Designating the Ault/Thode Property, 714 West Mountain Avenue, Fort Collins, Colorado, as a Fort Collins Landmark Pursuant to Chapter 14 of the Code of the City of Fort Collins. (Adopted)**

The owner of the property, Henry Thode III, is initiating this request for Fort Collins Landmark designation of the Ault/Thode Property at 714 West Mountain Avenue.

11. **First Reading of Ordinance No. 089, 2015, Calling a Special Municipal Election to Be Held in Conjunction with the November 3, 2015 Larimer County Coordinated Election. (Adopted)**

The purpose of this item is to call a Special Municipal Election to be held in conjunction with the November 3, 2015 Larimer County Coordinated Election, and preserves the opportunity for Council to place initiated or referred issues on the November ballot. If Council decides to place any measures on the ballot, it would need to do so no later than at its August 18 meeting. If Council does not take action by ordinance or resolution before the statutory deadline (September 4) to certify ballot language to Larimer County, the election will be cancelled and the provisions of this Ordinance will be of no further force and effect.

This Ordinance does not submit a specific measure to the November 3, 2015 ballot. However, Council is considering whether to seek voter authorization to set aside statutory limitations on direct or indirect local government competition in utility, entertainment, and telecom services within the City's growth management area, pursuant to §§ 29-27-101 to 304, C.R.S. Adoption of this Ordinance is a required step in preserving the option for City Council to submit the initiated ordinance, and/or any other ballot measures that Council may desire, at the November 3, 2015 Coordinated Election.

12. **Resolution 2015-067 Approving an Art Project for the North College Improvement Project and Authorizing Expenditures from the Cultural Services and Facilities Fund to Commission an Artist to Create the Art Project. (Adopted)**

The purpose of this item is it to approve expenditures from the Art in Public Places Reserve Account to commission an artist to create art for the second phase of the APP North College Improvement Project. The expenditures of \$33,542 will be for design, materials, fabrication, installation and contingency for Andy Dufford of Chevo Studios to create five stone and metal monuments for the North College Improvement Project.

13. **Resolution 2015-068 Approving Fort Fund Grant Disbursements. (Adopted)**

The purpose of this item is to adopt the recommendations of the Cultural Resources Board to disburse Fort Fund grants to community events from the Cultural Development and Programming and Tourism Programming Accounts.

14. **Resolution 2015-070 Authorizing the City Manager to Execute the 2015 Grant Agreement (AIP Project No. 3-08-0023-034-2015) with the Federal Aviation Administration and a State of Colorado Division of Aeronautics Grant for Improvements at the Fort Collins-Loveland Municipal Airport. (Adopted)**

The purpose of this item is to authorize the City Manager to execute Grant Agreement No. 3-08-0023-034-29015 from the Federal Aviation Administration (FAA) for \$760,000. The FAA grant will be used for a capital construction project that includes the construction of a snow removal equipment storage facility. This item also authorizes the City Manager to sign a State of Colorado Division of Aeronautics Grant ("CDAG") Agreement for \$42,222.

15. **Resolution 2015-071 Making Appointments to the Land Conservation and Stewardship and Water Boards. (Adopted)**

The purpose of this item is to appoint David Tweedale to the Land Conservation and Stewardship Board and Kent Bruxvoort to the Water Board to fulfill vacancies created through resignations.

- **END CONSENT**

- **COUNCILMEMBER REPORTS**

Councilmember Overbeck thanked the boards and commissions for attending last week's work session. He reported on his attendance at the Buckeye neighborhood block party and his participation in the Preserve American Youth summit. He showed a video regarding the summit.

Councilmember Martinez and Mayor Troxell also commented on their participation in the Preserve American Youth summit.

- **DISCUSSION ITEMS**

16. **Consideration of Three Appeals of the Zoning Board of Appeals Decision Regarding the "Change of Use-Building Permit" for Fraternity Use, 201 East Elizabeth Street. (Board Decision Upheld with Condition)**

On May 14, 2015, in a 6-1 vote, the Zoning Board of Appeals (ZBA) approved the motion to uphold the decision of the Community Development and Neighborhood Services (CDNS) Director. Three separate appeals of the ZBA's decision were filed with the City Clerk. The three parties of appellants are as follows:

- *McGrew Appeal: Aaron McGrew, Ashley McGrew, Joseph Piesman, Ray Frush, Lisa Moravan, and Mark Havens*
- *Snyder Appeal: John Snyder*
- *Laupa Appeal: Cindy Laupa and John Laupa (represented by: Jamie Baker Roskie, Attorney at Law)*

The City Code outlines six errors that can occur during the decision making process. The three parties have filed an appeal on the following alleged errors:

- *Failure to properly interpret and apply relevant provisions of the Land Use Code. (McGrew, Snyder and Laupa Appeals)*
- *Failure to conduct a fair hearing, in that the Board exceeded its authority or jurisdiction as contained in the Code or Charter. (Snyder and Laupa Appeals)*
- *Failure to conduct a fair hearing in that, the Board considered evidence, relevant to its findings, which was substantially false or grossly misleading. (McGrew, Snyder and Laupa Appeals)*

These are the issues for Council's consideration in connection with these appeals.

Mayor Troxell noted the appeals will be consolidated into a single process.

Councilmember Martinez recused himself from the discussion of this item.

City Attorney Daggett reviewed the appeal process and history of the matter up to this point.

Mayor Troxell provided an outline of the time allotments for each section of the hearing and stated three Councilmember attended a site visit.

Councilmember Cunniff stated he attended the site visit and compared the site to plans on record.

Councilmember Overbeck stated he also attended the site visit and observed the property.

Mayor Troxell stated he attended the site visit and noted three items were passed out. Additionally, he detailed questions that were asked at the site visit and asked if there were any objections to the admission of two exhibits which have been submitted to the City Clerk. There were no objections. Mayor Troxell asked there were any general procedural questions prior to the start of the hearing.

An unidentified audience member asked if the appellants would be allotted a total of 30 minutes or would each be cut off at 10 minutes. Mayor Troxell replied each appealing party would receive 10 minutes.

Rick Zier requested certain inclusions in the staff presentation.

Mayor Troxell asked if the appellants would be amenable to allowing the total time of 30 minutes rather than each party receiving 10 minutes. Jamie Baker Roskie, attorney representing the Laupa's, requested three discreet times and requested each appellant be given 20 minutes rather than 10.

Mayor Troxell stated each appellant would be granted 10 minutes.

Tom Leeson, Interim Director of Community Development and Neighborhood Services, stated the presentation has been revised from the one that was published, primarily to ensure that the presentation was consistent with the agenda summary provided in the Council packet as well as to provide some clarifying points. He stated the staff presentation is designed to provide a summary of the evidence from the ZBA hearing and is not intended to be a full explanation of what occurred in that hearing. He noted a verbatim transcript of the ZBA hearing was included in the packet.

Leeson stated the Zoning Board of Appeals met on May 14, 2015 and approved the motion to uphold the decision of the Community Development and Neighborhood Services Director, which approved the change of use permit for 201 East Elizabeth Street to a fraternity with three conditions: the building shall be limited to 18 occupants, no meeting shall exceed 18 attendees, and 8 off-street parking spaces shall be provided. Subsequent to the ZBA decision to uphold the Director's decision, three appeals were filed. Leeson detailed the grounds for appeal for each of the three appeal applications.

APPELLANT PRESENTATION

Ms. Roskie, attorney representing the Laupas, stated staff's assertion that the 1978 certificate of occupancy for this property is still valid is incorrect. Even if it were valid, the Director's decision to grant a change of use permit was an abuse of discretion and exceeded her jurisdiction as did the ZBA's ratification of that permit. The Code provision on which the permit was granted is void for vagueness and raises due process concerns. She stated the permit should be denied because the fraternity use and occupancy are incompatible with the neighborhood and surrounding uses. Additionally, the three conditions of the change of use permit are insufficient to address the impacts of this use. The proper remedy is to deny a fraternity use altogether.

Matt Morris, representing the Snyder appeal, stated the intent of the Building Code, which is to protect public health, safety and welfare, should be taken into consideration. He discussed the history of the property and its uses and descriptions of single-family occupancy. The property should be evaluated under current building codes and should not be permitted under a fraternity classification until the property has been altered to comply with such codes, citing a change of use and change of occupancy classification. Additionally, the Zoning Board of Appeals' meeting minutes describe the property multiple times as a single-family residence after 2006 with no comments to the contrary on record.

Aaron McGrew, representing the McGrew appeal, opposed the use of the property in question citing the character of the neighborhood and the Eastside and Westside Neighborhood Plan.

Ashley Linton, representing the McGrew appeal, further discussed the Eastside Neighborhood Plan.

Joe Piesman discussed the neighborhood and stated current residents have worked hard to make the block what it is today.

Mark Havens discussed the renovation of his property at 215 East Elizabeth and stated this proposal will forever change the character of the neighborhood.

Lisa Moravan opposed the high-density use of the subject property and expressed concern regarding enforcement of imposed conditions.

OPPONENT PRESENTATION

Rick Zier, attorney for opponents to the appeal, stated this is an appeal under the Land Use Code, not the Building Code.

Deanne Fredericksen, planning consultant with AGProfessionals representing Saddle Up Partners, stated this application meets or exceeds applicable Land Use Code requirements. The NCB zone, in which this property is located, allows fraternity uses with a Planning and Zoning Board review. Ms. Fredericksen noted the planned parking lot exceeds Code requirements by two spaces and stated the property owners have worked out an agreement with a nearby church to allow for additional parking. She requested the decision of the Director and the decision of the appeal to the ZBA be upheld.

Julie Rickett, property owner at 201 East Elizabeth, stated returning this building's use to a fraternity would be the most sustainable, efficient and mindful thing to do with the large home. This project exemplifies the partnership between CSU and the Fort Collins community and the fraternity use has led to improvements inside and outside the property. Additionally, the character of the current fraternity residents has been exemplary and fear and prejudice are the driving force against welcoming Greek students into a house that is a perfect fit for them.

Paul Milewski, property owner at 201 East Elizabeth, stated he was assured the property was properly zoned prior to purchasing the home. Fraternity chapters are no longer allowed to have alcohol at parties and many of the original complaints were prejudiced against fraternity uses. Improvements to the property will increase property values. Mr. Milewski discussed the process he and Ms. Rickett have undertaken and all of the City's processes have been properly followed by his team.

APPELLANT REBUTTAL

Ms. Roskie stated this permit involves Building Code issues and the Code clearly requires Planning and Zoning Board approval. No finding was made by the Director as to why that would not be reasonably feasible. None of the promises made by Mr. Milewski and Ms. Rickett are enforceable. She requested Council deny the change of use permit on the basis that the 1978 certificate of occupancy is no longer valid, that the change of use permit was improperly granted in excess of the Director's jurisdiction and as an abuse of discretion, and on the basis that the fraternity use is incompatible with the neighborhood and surrounding uses.

Mr. Morris stated the current certificate of occupancy on file for the property indicates it is an R-1 while a slide presented by Leeson noted that the property will be evaluated as an R-2 by Building Code. It is a change of occupancy classification and should be evaluated as such according to the Building Code.

Mr. McGrew stated he is not discriminatory against the fraternity members and commended the group of young men. He questioned whether the property is safe enough to house 18 people as is.

OPPONENT REBUTTAL

Mr. Zier stated the applicants have met all City requirements and the project has been vetted through all appropriate City processes. He noted the Planning and Zoning Board review would have only been required if this were a new use as opposed to the resurrection of an abandoned use. The Director did her job carefully and correctly, as ratified by the Zoning Board of Appeals, as per the Land Use Code's regulations regarding abandoned uses.

Mr. Milewski stated he and Ms. Rickett will be hands-on property owners and want to integrate in the neighborhood. They are quite concerned with safety.

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

Councilmember Cunniff requested information regarding the determination that the 1978 certificate of occupancy is still valid. Mike Gebo, Chief Building Official, replied the 1978 certificate of occupancy was issued identifying fraternity and boarding and rooming uses. The typical process for changing a certificate of occupancy would involve the owner going through the City process to change the occupancy type. This property never underwent action to revoke the certificate of occupancy. The 2006 extensive remodel met all of the applicable Building Codes in place at the time and the owner at that time made no efforts to change the certificate of occupancy to single-family. Gebo was uncertain whether or not an owner living in a boarding or rooming house would be considered a violation of the certificate of occupancy.

Councilmember Cunniff asked if any of the 2006 remodeling would have been in conflict with the building's use as a fraternity. Gebo replied in the negative.

Mayor Pro Tem Horak asked if all the Codes for a fraternity use were met in 2006. Gebo replied in the negative stating the certificate of occupancy issued in 1978 provided a variance for a sprinkler system and there was no trigger in the 2006 permit to require a sprinkler system.

Mayor Pro Tem Horak asked if all Codes applicable to a fraternity use were met in 2006 when the remodeling was done. Gebo replied in the affirmative.

Councilmember Cunniff asked if the 2006 work was inspected. Gebo replied in the affirmative and stated a letter of completion was issued because the certificate of occupancy already existed.

Councilmember Campana requested additional information regarding a letter of completion versus a certificate of occupancy. Gebo replied the first-time occupancy of a building is issued a certificate of occupancy, which is a Building Code term that identifies the occupancy classification. That certificate of occupancy remains until it is changed through another permit process. Any work for which permits are issued from the time the original certificate of occupancy is issued does not change the certificate of occupancy and those permits are closed by the issuance of a letter of completion, not another certificate of occupancy.

Councilmember Cunniff asked if there is a threshold with respect to building codes under which a certain amount of remodel would require them to update to the latest version of the adopted Building Code. Gebo replied in the negative.

Councilmember Overbeck asked if there are any employees on the premise of the fraternity. The applicant replied in the negative.

Mayor Pro Tem Horak asked if there is a specific definition of fraternity. Gebo replied there was not a specific fraternity definition in the Building Code at the time the certificate was originally issued.

COUNCIL DISCUSSION

Mayor Troxell requested Council discussion regarding the issue of a fair hearing.

Councilmember Cunniff expressed agreement with the staff recommendation that the Director was authorized to make the original decision. Additionally, he agreed the original certificate of occupancy was still in place and applicable.

Councilmember Campana made a motion, seconded by Councilmember Cunniff, that the Board conducted a fair hearing in its consideration of the change of use permit for 201 East Elizabeth Street and did not exceed its authority or jurisdiction or consider evidence that was substantially false or grossly misleading.

Councilmember Campana commended the neighborhood pride but stated the evidence shows the Director was the appropriate decision-maker and a fair hearing was conducted.

Councilmember Cunniff stated he would support the motion as the presented evidence indicates standards were met.

RESULT:	BOARD CONDUCTED A FAIR HEARING [UNANIMOUS]
MOVER:	Gino Campana, District 3
SECONDER:	Ross Cunniff, District 5
AYES:	Campana, Martinez, Stephens, Overbeck, Troxell, Cunniff, Horak

Mayor Troxell requested Council discussion regarding the allegation of improper interpretation and application of Land Use Code provisions.

Mayor Pro Tem Horak stated the equity of the situation has not been completely addressed and suggested additional conditions on the use could be imposed related to making sure the use is meeting current standards regarding health and safety. Gebo stated the current Codes have additional residential occupancies based on whether they are transient occupants or non-transient occupants and the number of occupants. Therefore, if this were a transient use with 16 or less residents, the building would need to be sprinkled to the single-family dwelling standard. If this were a non-transient use with more than 16 occupants, the building would need to be sprinkled to a commercial standard.

Mayor Pro Tem Horak asked if any other health and safety standards would be applicable. Gebo replied only the sprinkler condition would be applicable to this address because everything else is already in place.

Councilmember Campana asked if a variance to the sprinkler would be possible given the historic nature of the property. Gebo replied in the affirmative but noted life and safety are always the priority.

Mayor Troxell asked about egress windows in the property. Gebo replied the permits in the file reference egress windows and electric upgrades, among other improvements.

Mayor Troxell asked about the addition of handicapped parking at the rear entrance. Gebo replied the accessibility to a building is independent from parking accessibility. The requirements for accessibility into the building would be examined should a change of occupancy occur.

Councilmember Overbeck asked about the parking agreement with the church which limits parking there during the weekends. Mr. Milewski replied there are two more parking spaces on-site than are required by Code and stated there is plenty of on-street parking. On-street parking has never been an issue just east of the house and the number of off-street spaces exceeds the Code requirements.

Councilmember Campana made a motion, seconded by Mayor Pro Tem Horak, to modify the approval by the Zoning Board of Appeals of the change of use permit for 201 East Elizabeth Street, by adding the following condition: that a single-family, 13D, sprinkler system be installed in the property within 24 months, during which time the fraternity can continue to operate under the occupancy as granted. Additionally, Campana moved that, except as so stated, based on the evidence in the record and presented in this hearing, the McGrew, Snyder and Laupa appeals are hereby found to be without merit and are denied.

Councilmember Campana stated the sprinkler is a good compromise to alleviate health and safety concerns while allowing enough time for the property owners to gain some income and plan to install the system.

Mayor Pro Tem Horak questioned the difference between a fraternity and a boarding house. Gebo replied the current Code states a residential group, R1, would be a boarding house with more than 10 transient occupants. A non-transient boarding house with more than 16 occupants

would be classified as R2, and a boarding house with 16 or fewer non-transient occupants is R3; therefore, the full commercial sprinkler system would be required in this instance.

Cameron Gloss, Planning Manager, stated the Land Use Code does differentiate between a boarding house and a fraternity.

Mayor Pro Tem Horak asked if Council could place a condition on this approval to allow only a fraternity use. City Attorney Daggett replied that requirement is within Council's discretion.

Mayor Pro Tem Horak asked about the implications of placing that type of restriction on this property. Gloss replied the main differentiation is that a fraternity or sorority has specific requirements in its association with Colorado State University.

Councilmember Campana asked how existing Codes would pertain to each type of use. Gloss replied the Land Use Code contains a series of performance standards related to occupancy and the decision maker has the authority to add conditions related to sound, light, hours of operation, and other compatibility criteria.

Councilmember Campana asked about complaints being filed and the nuisance ordinance. Gloss replied the nuisance ordinance does apply to those uses and the proper City department would handle complaints.

Councilmember Cunniff suggested an amendment that the occupancy be constrained to fraternity/sorority uses.

Leeson noted the Building Code does not differentiate between the two uses; however, the Land Use Code does differentiate and stated the current approval of a fraternity use applies right now. He stated a change of use process would need to occur in order for the use to be changed to a boarding house.

Councilmember Cunniff withdrew his amendment.

Mayor Pro Tem Horak and Councilmember Stephens stated they would support the motion.

Mayor Troxell requested verification of CSU's requirements for fraternities.

RESULT:	BOARD DECISION UPHeld, WITH CONDITION [UNANIMOUS]
MOVER:	Gino Campana, District 3
SECONDER:	Gerry Horak, District 6
AYES:	Campana, Martinez, Stephens, Overbeck, Troxell, Cunniff, Horak

17. **Items Relating to the Addition of Permitted Use Amended Process. (Adopted on Second Reading)**

- A. *Second Reading of Ordinance No. 079, 2015, Imposing a Moratorium Upon the Application or Effectiveness of Section 1.3.4(D) of the Land Use Code Pertaining to the Addition of Permitted Uses by the Planning and Zoning Board.*
- B. *Second Reading of Ordinance No. 080, 2015, Amending Section 1.3.4 of the Land Use Code Pertaining to the Addition of Permitted Uses in Eight Zone Districts.*

The purpose of this item is to amend the Land Use Code to require City Council review of Addition of Permitted Use (APU) applications in eight residential zone districts and to enact a moratorium on such applications for a period of ninety (90) days from the effective date of Ordinance No. 79, 2015 or until the effective date of Ordinance No. 80, 2015, whichever occurs first. Ordinance No. 079, 2015 was adopted on First Reading on July 7, 2015 by a vote of 5-2 (Nays: Campana, Troxell). Ordinance No. 080, 2015 was unanimously adopted on First Reading on July 7.

Cameron Gloss, Planning Manager, reviewed Council's previous recommendation and detailed the recommended process. He stated it is customary that the City provide a letter to affected property owners citing details of the application and a citizen has recently requested the inclusion of a separate brochure in those letters which would describe the APU process. He stated staff would prefer to have a posting on the City's webpage, which is customary for other types of development review procedures.

Eric Sutherland opposed Council's policy to not take comments regarding potential quasi-judicial matters and ex parte communication.

Paul Patterson stated the APU process is too vague and expressed concern regarding the use of the process wherein a developer and citizens are not in agreement. He suggested postponement of the Second Reading of the Ordinance pending further consideration of the structure of the process.

Michelle Haefele requested postponement of the Second Reading of the Ordinance and enactment of a moratorium on the use of the APU.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to adopt Ordinance No. 079, 2015, on Second Reading.

RESULT:	ORDINANCE NO. 079, 2015 ADOPTED ON SECOND READING [6 TO 1]
MOVER:	Gerry Horak, District 6
SECONDER:	Ross Cunniff, District 5
AYES:	Martinez, Stephens, Overbeck, Troxell, Cunniff, Horak
NAYS:	Campana

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to postpone consideration of Second Reading of Ordinance No. 080, 2015, to September 1, 2015.

Councilmember Campana stated he would not support the motion as the current APU process is not broken.

Councilmember Martinez agreed with Councilmember Campana but stated he would support the motion as a compromise.

Councilmember Stephens stated she would support the motion as it provides an additional layer of protection for the city's neighborhoods.

RESULT:	ORDINANCE NO. 080, 2015 SECOND READING POSTPONED TO SEPTEMBER 1, 2015 [6 TO 1]
MOVER:	Gerry Horak, District 6
SECONDER:	Ross Cunniff, District 5
AYES:	Martinez, Stephens, Overbeck, Troxell, Cunniff, Horak
NAYS:	Campana

19. **First Reading of Ordinance No. 083, 2015, Adopting a Policy Related to Initiation of Ordinances and Resolutions and Making Related Clarifying Amendments to Section 2-32(d) of the Code of the City of Fort Collins. (Adopted on First Reading)**

The purpose of this item is to adopt a policy relating to Council or Councilmember action initiating ordinances and resolutions and make related clarifying amendments to Section 2.32(d) of the City Code. Two options (A – majority vote required; or B – three Councilmembers’ support required) are provided based on the Council’s discussion at its July 7 meeting. This item was postponed to July 21st at that time.

City Attorney Daggett described changes to the Ordinance since it was first presented on July 7.

Eric Sutherland read from the City Charter and stated it indicates the legislative purview of Council may be taken up by a single Councilmember in terms of bringing items up for consideration by the entire body.

Nancy York stated there is no rationale for changing the three Councilmember rule.

Cheryl Distaso, Fort Collins Community Action Network, supported keeping the status quo.

Councilmember Cunniff stated the Charter provision mentioned by Mr. Sutherland would still be in effect and would allow any Councilmember to write and bring forth an Ordinance or Resolution; however, that would not have any staff time, public outreach, or expenditure of City resources. City Attorney Daggett replied that is correct to some extent; however, there is a specific provision that charges the City Attorney with drafting all Ordinances and Resolutions.

Councilmember Cunniff argued three Councilmembers should be able to bring forth an issue for consideration, citing other examples wherein three Councilmembers, such as the Finance Committee, can bring forth recommendations.

Councilmember Campana argued Committees can bring forth recommendations; however, that is different than directing an Ordinance to be crafted. He argued having four Councilmembers in agreement to direct the crafting of an Ordinance would increase efficiencies.

Councilmember Martinez stated it is important to not overburden staff unnecessarily.

Councilmember Stephens agreed with Councilmember Cunniff.

Councilmember Overbeck stated the rule of three has served the citizens well and stated he would not support the rule of four.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Campana, to adopt Ordinance No. 083, 2015, Option A, on First Reading.

Mayor Pro Tem Horak stated the rule of three has not necessarily been beneficial.

Councilmember Martinez requested City Attorney input regarding Mr. Sutherland's reference to the City Charter. City Attorney Daggett replied she does not believe the Charter would prohibit Council from adopting this Ordinance; Council still has the ability to establish processes it will use in order to administer the work of staff.

Mayor Troxell stated he would support the motion stating this would not preclude good items coming forward, but does encourage discussion among Councilmembers in order to engage broader City engagement.

RESULT:	ORDINANCE NO. 083, 2015 ADOPTED ON FIRST READING [4 TO 3]
MOVER:	Gerry Horak, District 6
SECONDER:	Gino Campana, District 3
AYES:	Martinez, Campana, Troxell, Horak
NAYS:	Stephens, Overbeck, Cunniff

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

20. **Second Reading of Ordinance No. 074, 2015, Authorizing the Transfer of Previously Appropriated Funds in the Storm Drainage Fund From Individual Stormwater Basin Capital Projects into the Stormwater Basin Improvement Capital Project. (Adopted on Second Reading)**

This Ordinance, unanimously adopted on First Reading on July 7, 2015, transfers and consolidates previously appropriated funds from the nine individual stormwater basin capital projects and the Drainage System Replacement Project into the citywide Stormwater Basin Improvement Capital Project. All appropriations will continue to be used for stormwater basin management improvement projects, while improving transparency and flexibility to fund and construct the highest priority stormwater improvements that are required citywide.

Eric Sutherland stated he pulled this item because Fort Collins has the highest stormwater fees of any comparable city along the Front Range. He opposed the City's expenditures.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Martinez, to adopt Ordinance No. 074, 2015, on Second Reading.

Councilmember Cunniff asked if there are anticipated uses for these funds. Kevin Gertig, Utilities Executive Director, replied there is a prioritized list in the Agenda Item Summary and the request is for some flexibility with accountability regarding this list. Jon Haukaas, Stormwater Utilities, clarified there is not one large project slated for these funds.

Councilmember Cunniff asked about the progress of the Stormwater Capital Improvement Plan. Gertig replied there is an existing Capital Improvement Plan for Stormwater, the project priorities for which will be updated.

Councilmember Cunniff asked when the fee structure will be reexamined. Gertig replied that is not scheduled at this time; however, staff is working on developing some initial information.

Mayor Pro Tem Horak noted there are many open space areas which have been funded by Stormwater dollars.

RESULT:	ORDINANCE NO. 074, 2015 ADOPTED ON SECOND READING [UNANIMOUS]
MOVER:	Gerry Horak, District 6
SECONDER:	Ray Martinez, District 2
AYES:	Martinez, Stephens, Overbeck, Campana, Troxell, Cunniff, Horak

21. **Second Reading of Ordinance No. 078, 2015, Making Certain Amendments to Chapter 26 of the Code of the City of Fort Collins Pertaining to Electric Rates, Fees and Other Charges Associated with the Time of Use Pilot Rate Study. (Adopted on Second Reading)**

This Ordinance, unanimously adopted on First Reading on July 7, 2015, implements a residential time-of-use (TOU) pilot rate study. The pilot study will implement two parallel TOU rate structures for pre-selected residential customers for a 12-month period. Customers will have the option to opt-out. Staff is recommending a “best-bill” guarantee to encourage participation throughout the life of the study. A sampling of net metering solar photovoltaic (PV) customers will be included within each pilot rate group.

Eric Sutherland opposed the City’s Smart Meter installation stating the anticipated cost savings have not occurred. He referred to the installation as an experiment which has failed.

Councilmember Martinez asked if there is evidence to support Mr. Sutherland's claims. Councilmember Campana replied this is a pilot study which has nothing to do with Smart Meters. Lance Smith, Utilities Strategic Financial Planning Manager, stated the intent of the pilot study is to help determine whether a time of use rate may or may not be more effective than the current rate structure. There are no studies he is aware of which have looked at whether or not time of use rate structures promote conservation.

Councilmember Campana stated this study has multiple objectives, to determine if one of the piloted rate structures more effectively promotes energy conservation than the current tiered rate, to determine if one of the piloted rate structures more efficiently utilizes the existing generation resources, and to more fairly charge the actual cost for the electricity being provided.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Stephens, to adopt Ordinance No. 078, 2015, on Second Reading.

Councilmember Cunniff stated he has received citizen concerns that there may not be a well-identified control in this study.

City Manager Atteberry stated there are opinions supporting Mr. Sutherland's comments; however, the challenge is utilizing data-driven research papers. He stated this item will attempt to garner beneficial local data and noted half of these funds were from a Department of Energy grant.

RESULT:	ORDINANCE NO. 078, 2015, ADOPTED ON SECOND READING [UNANIMOUS]
MOVER:	Gerry Horak, District 6
SECONDER:	Kristin Stephens, District 4
AYES:	Martinez, Stephens, Overbeck, Campana, Troxell, Cunniff, Horak

22. **Second Reading of Ordinance No. 082, 2015, Amending the Land Use Code with Regard to City Development Projects. (Adopted on Second Reading)**

Ordinance No. 082, 2015, unanimously adopted on First Reading on July 7, 2015, amends the Land Use Code to require any development review project in which the City is an applicant to be reviewed by the Planning and Zoning Board (P&Z) and eliminate formal appeals to the City Council while allowing a Council override of a P&Z decision.

Eric Sutherland stated City-driven projects can also go through the appeal process; however, citizens may not be parties-in-interest. He stated this change is predicated on the idea that Councilmembers may then have the latitude to speak with citizens about City-driven projects and argued there is little to no difference between those projects and garden-variety development review processes.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to adopt Ordinance No. 082, 2015, on Second Reading.

RESULT:	ORDINANCE NO. 082, 2015, ADOPTED ON SECOND READING [UNANIMOUS]
MOVER:	Gerry Horak, District 6
SECONDER:	Ross Cunniff, District 5
AYES:	Martinez, Stephens, Overbeck, Campana, Troxell, Cunniff, Horak

23. **Resolution 2015-069 Approving the 2015 Certification to the Larimer County Assessor Pursuant to C.R.S. Section 31-25-807(3)(a)(IV)(B) for the Downtown Development Authority Property Tax Increment. (Adopted)**

The purpose of this item is to certify for 2015 to the Larimer County Assessor the percentages of property tax distributions that are to be allocated for the Downtown Development Authority by the Assessor as tax increment from the property taxes of the City and of all other affected taxing entities.

Eric Sutherland opposed multiple-year financial obligations stating they are in conflict with the TABOR amendment.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Overbeck, to adopt Resolution 2015-069. Yeas: Martinez, Stephens, Overbeck, Campana, Troxell, Cunniff and Horak. Nays: none.

THE MOTION CARRIED.

RESULT:	RESOLUTION 2015-069 ADOPTED [UNANIMOUS]
MOVER:	Gerry Horak, District 6
SECONDER:	Bob Overbeck, District 1
AYES:	Martinez, Stephens, Overbeck, Campana, Troxell, Cunniff, Horak

● **OTHER BUSINESS**

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to cancel the August 4, 2015 Council meeting as permitted under Section 2-28 of the City Code so that Councilmembers may participate in the annual Neighborhood Night Out.

RESULT:	MOTION TO CANCEL AUGUST 4 COUNCIL MEETING ADOPTED [UNANIMOUS]
MOVER:	Gerry Horak, District 6
SECONDER:	Ross Cunniff, District 5
AYES:	Martinez, Stephens, Overbeck, Campana, Troxell, Cunniff, Horak

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, that the City call a Special Meeting of the Council pursuant to Section 2-29(a) of the City Code for 6:00 PM on Tuesday, August 11th, to be held at City Hall, 300 Laporte Avenue, for the purpose of a possible Executive Session to discuss personnel matters related to collective bargaining.

RESULT:	MOTION TO CALL SPECIAL MEETING ON AUGUST 11, 2015, ADOPTED [UNANIMOUS]
MOVER:	Gerry Horak, District 6
SECONDER:	Ross Cunniff, District 5
AYES:	Martinez, Stephens, Overbeck, Campana, Troxell, Cunniff, Horak

Councilmember Overbeck stated there was an oil spill in the City's Growth Management Area recently. He stated the County was asked to look into the issue; however, they have yet to respond.

Councilmember Overbeck made a motion, seconded by Councilmember Cunniff, to direct City staff to formulate a formal policy to post all oil and gas spills within the Growth Management Area and the City of Fort Collins.

Councilmember Cunniff made a friendly amendment that the City Manager inform Council of the current policy, but if it does not include posting on the City's website, that that starts being developed. Councilmember Overbeck accepted the friendly amendment.

RESULT:	MOTION ADOPTED [UNANIMOUS]
MOVER:	Bob Overbeck, District 1
SECONDER:	Ross Cunniff, District 5
AYES:	Martinez, Stephens, Overbeck, Campana, Troxell, Cunniff, Horak

● ADJOURNMENT

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to adjourn to 6:00 PM on Tuesday, July 28, 2015 to consider such business as may come before the City Council, including the findings of the tonight's appeal hearing.

RESULT:	MOTION TO ADJOURN TO JULY 28, 2015, ADOPTED [UNANIMOUS]
MOVER:	Gerry Horak, District 6
SECONDER:	Ross Cunniff, District 5
AYES:	Martinez, Stephens, Overbeck, Campana, Troxell, Cunniff, Horak

July 21, 2015

The meeting adjourned at 10:10 PM.

Mayor

ATTEST:

Chief Deputy City Clerk

July 28, 2015

COUNCIL OF THE CITY OF FORT COLLINS, COLORADO

Council-Manager Form of Government

Adjourned Meeting – 6:00 PM

● ROLL CALL

PRESENT: Stephens, Overbeck, Campana, Troxell, Cunniff, Horak
ABSENT: Martinez (Recused)

Staff present: Atteberry, Daggett, Knoll

1. **Resolution 2015-072 Making Findings of Fact And Conclusions of Law Regarding Three Appeals of the Zoning Board of Appeals Decision Regarding the “Change of Use-Building Permit” for Fraternity Use, 201 East Elizabeth Street. (Adopted)**

The purpose of this item is to adopt Findings of Fact and Conclusions regarding the three Appeals of the Change of Use Building Permit for Fraternity Use at 201 E. Elizabeth Street. On July 21, 2015, the City Council voted 6-0 on the motion that the Zoning Board of Appeals conducted a fair hearing and properly interpreted and applied relevant sections of the Land Use Code in upholding the decision of the Community Development and Neighborhood Services (CDNS) Director. As part of its action, the City Council added the condition that the applicant must install an NFPA 13D fire sprinkler system within 24 months.

Councilmember Horak made a motion, seconded by Councilmember Overbeck, to adopt Resolution 2015-072.

RESULT:	RESOLUTION 2015-072 ADOPTED [UNANIMOUS]
MOVER:	Gerry Horak, District 6
SECONDER:	Bob Overbeck, District 1
AYES:	Stephens, Overbeck, Campana, Troxell, Cunniff, Horak
RECUSED:	Martinez

● ADJOURNMENT

The meeting adjourned at 6:02 PM.

Mayor

ATTEST:

Chief Deputy City Clerk