



Wade Troxell, Mayor
Gerry Horak, District 6, Mayor Pro Tem
Bob Overbeck, District 1
Ray Martinez, District 2
Gino Campana, District 3
Kristin Stephens, District 4
Ross Cunniff, District 5

City Council Chambers
City Hall West
300 LaPorte Avenue
Fort Collins, Colorado

Cablecast on City Cable Channel 14
on the Comcast cable system

Carrie Daggett
City Attorney

Darin Atteberry
City Manager

Wanda Winkelmann
City Clerk

The City of Fort Collins will make reasonable accommodations for access to City services, programs, and activities and will make special communication arrangements for persons with disabilities. Please call 221-6515 (V/TDD: Dial 711 for Relay Colorado) for assistance.

Regular Meeting March 15, 2016

REVISED 03/14/16

Proclamations and Presentations 5:30 p.m.

- A. Proclamation Declaring March 22, 2016, as World Water Day.
- B. Proclamation Declaring March 14-20, 2016 as Fix a Leak Week.
- C. Proclamation Declaring the City of Fort Collins will strive to be an Open City.

Regular Meeting 6:00 p.m.

- **PLEDGE OF ALLEGIANCE**

- **CALL MEETING TO ORDER**

- **ROLL CALL**

- **AGENDA REVIEW: CITY MANAGER**

- City Manager Review of Agenda.
- Consent Calendar Review

This Review provides an opportunity for Council and citizens to pull items from the Consent Calendar. Anyone may request an item on this calendar be “pulled” off the Consent Calendar and considered separately.

- Council-pulled Consent Calendar items will be considered before Discussion Items.
- Citizen-pulled Consent Calendar items will be considered after Discussion Items.

- **CITIZEN PARTICIPATION**

Individuals may comment regarding items scheduled on the Consent Calendar and items not specifically scheduled on the agenda. Comments regarding land use projects for which a development application has been filed should be submitted in the development review process** and not to the Council.

- Those who wish to speak are asked to sign in at the table in the lobby (for recordkeeping purposes).
- All speakers will be asked by the presiding officer to identify themselves by raising their hand, and then will be asked to move to one of the two lines of speakers (or to a seat nearby, for those who are not able to stand while waiting).
- The presiding officer will determine and announce the length of time allowed for each speaker.
- Each speaker will be asked to state his or her name and general address for the record, and to keep comments brief. Any written comments or materials intended for the Council should be provided to the City Clerk.
- A timer will beep once and the timer light will turn yellow to indicate that 30 seconds of speaking time remain, and will beep again and turn red when a speaker’s time to speak has ended.

[**For questions about the development review process or the status of any particular development, citizens should consult the Development Review Center page on the City’s website at fcgov.com/developmentreview, or contact the Development Review Center at 221-6750.]

- **CITIZEN PARTICIPATION FOLLOW-UP**

Consent Calendar

The Consent Calendar is intended to allow the City Council to spend its time and energy on the important items on a lengthy agenda. Staff recommends approval of the Consent Calendar. Anyone may request an item on this calendar to be "pulled" off the Consent Calendar and considered separately. Agenda items pulled from the Consent Calendar will be considered separately under Pulled Consent Items. Items remaining on the Consent Calendar will be approved by City Council with one vote. The Consent Calendar consists of:

- Ordinances on First Reading that are routine;
- Ordinances on Second Reading that are routine;
- Those of no perceived controversy;
- Routine administrative actions.

1. Consideration and Approval of the Minutes of the March 1, 2016 Regular Council Meeting.

The purpose of this item is to approve the minutes from the March 1, 2016 Regular Council meeting.

2. Second Reading of Ordinance No. 026, 2016, Establishing Rental Rates and Delivery Charges for the Use of the City's Raw Water for the 2016 Irrigation Season.

This Ordinance, unanimously adopted on First Reading on March 1, 2016, approves the rates and charges for the rental and delivery of the Utilities raw water supplies for the 2016 irrigation season. These rates are used to invoice agricultural, contractual, and other water users.

3. Second Reading of Ordinance No. 027, 2016, Extending Ordinance No. 024, 2013, Which Amended the Land Use Code by the Addition of a Temporary Planned Development Overlay Zone District through March 9, 2017.

This Ordinance, unanimously adopted on First Reading on March 1, 2016, extends the Planned Development Overlay District (PDOD) Pilot Process for 12 months, as the current pilot will expire on March 9, 2016. A request has been received by a prospective applicant within the Planned Development Overlay District (PDOD) boundary to extend the pilot for an additional twelve months.

4. Second Reading of Ordinance No. 028, 2016, Authorizing the Release of Restrictive Covenants on Property at 520 Cherry Street Owned by the Fort Collins Housing Corporation.

This Ordinance, unanimously adopted on First Reading on March 1, 2016, authorizes the release of the Agreement of Restrictive Covenants Affecting Real Property for the property located at 520 Cherry Street, Units A and B, currently owned by the Fort Collins Housing Corporation.

5. Postponement of Second Reading of Ordinance No. 029, 2016, Authorizing the Acquisition by Eminent Domain Proceedings of Certain Lands Necessary to Construct Public Improvements in Connection with the Northeast College Corridor Outfall Project and the Lemay Avenue and Suniga Drive Right-of-Way Alignment to April 5, 2016.

Staff requests postponement of Second Reading of this Ordinance to April 5, 2016, to allow time for corrections to be made to the legal descriptions attached as Exhibits to the Ordinance.

This Ordinance, unanimously adopted on First Reading on March 1, 2016, authorizes the use of eminent domain, if deemed necessary, to acquire property interests needed to construct stormwater improvements associated with the Northeast College Corridor Outfall Project and the right-of-way alignment of Lemay Avenue and Suniga Drive. The City Utility and the City Engineering Department are collaborating on the design and implementation of two projects to provide public infrastructure in the area lying east of College Avenue and north of Vine Drive. The Northeast College Corridor Outfall Project (NECCO) will construct storm drainage improvements, including an underground pipe and detention pond, with the purpose of providing a regional stormwater outfall to serve the area east of College Avenue and north of Vine Drive. Additionally, the City is designing right-of-way improvements associated with the alignment of Lemay Avenue and Suniga Drive in accordance with the City's Master Street Plan. The overlapping alignment of the two projects has created an opportunity for the City to acquire the property interests necessary to construct the NECCO project in a timely manner, as well as, procure the right-of-way interests for the future construction of the Lemay Avenue and Suniga Drive intersection.

In order for the City to construct these improvements, the City will need to acquire certain property interests adjacent to the project area from three property owners. The acquisitions will include fee simple parcels, permanent easements for drainage, utilities, and elevation changes ("slope easements"), and temporary construction easements. Timely acquisition of the property is necessary to meet the anticipated construction schedule for the NECCO. Staff fully intends to negotiate in good faith with the affected owners and is optimistic that all property negotiations can be completed prior to the start of the Project. Staff is requesting authorization of eminent domain for all property acquisitions for the Project, only if such action is deemed necessary.

6. First Reading of Ordinance No. 039, 2016, Appropriating General Fund Reserves for the Construction of a Pedestrian Underpass at Foothills Parkway and College Avenue and Authorizing the City Manager to Enter Into Related Agreements.

The purpose of this item is to appropriate funds to partially fund the construction of the pedestrian underpass at Foothills Parkway and College Avenue as part of the Foothills Mall Redevelopment Project. The Ordinance will appropriate \$150,000 of City funds from General Fund Reserves and will also appropriate another \$300,000 from the General Fund Reserves representing monies the City anticipates to soon receive from the Colorado Department of Transportation ("CDOT"). The underpass project has exceeded the original cost estimated by \$600,000. As a result, CDOT has agreed to fund \$300,000 of this cost overrun under an intergovernmental agreement with the City (the "CDOT IGA"). Walton Foothills Holdings VI, LLC (the "Developer") has requested the City of Fort Collins cover \$150,000 of the cost overruns with the Developer contributing the remaining \$150,000.

The City's contribution through this appropriation will support:

1. Increasing the life expectancy of the bridge structure significantly from 10 to 15 years to a typical full life span of 50 to 60 years;
2. Disrupting the flow of traffic along College Avenue fewer times as the need to replace the structure under the south bound lanes is avoided in the next 10 to 15 years;
3. Avoiding future costs to the City related to repairing or upgrading the pedestrian facilities approaching and within the underpass beneath the south bound lanes in 10 to 15 years; and
4. Improving safety and aesthetics by constructing a new concrete box underpass tunnel with a constant width, grade, materials, and ceiling level.

The Ordinance also authorizes the City Manager, after consultation with the City Attorney, to enter into the amendment to the Foothills Mall Redevelopment and Reimbursement Agreement and the CDOT IGA that will both be needed to facilitate this additional funding.

7. Items Relating to the Financial Officer's Compromise and Settlement of Disputed Sales, Use and Lodging Tax Claims.

- A. First Reading of Ordinance No. 031, 2016, Repealing and Reenacting Section 25-198 of the Code of the City of Fort Collins to Authorize the City's Financial Officer to Compromise and Settle Claims the City Has Against Taxpayers for the Payment of Sales and Use Taxes.

- B. First Reading of Ordinance No. 032, 2016, Repealing and Reenacting Section 25-284 of the Code of the City of Fort Collins to Authorize the City's Financial Officer to Compromise and Settle Claims the City Has Against Taxpayers for the Payment of the Lodging Tax.

The purpose of this item is to grant the Financial Officer the authority to compromise and settle any actually assessed or potential claim to sales, use and lodging taxes and their related penalties and interest due to the City under Chapter 25 in an amount up to \$100,000 and in excess of \$100,000 with the City Manager's approval. The Financial Officer will be required to prepare and retain in Financial Services' files a written opinion explaining the Financial Officer's reasons for compromising and settling the claim. A written settlement agreement will also be required for all settlements in excess of \$2,500.

- 8. First Reading of Ordinance No. 033, 2016, Amending Chapter 17 of the Code of the City of Fort Collins to Update the Nuisance Gathering Provision.

The purpose of this item is to update the 2005 nuisance gathering provision to aid law enforcement in effectively addressing problem properties where social gatherings or parties result in unlawful behaviors.

- 9. First Reading of Ordinance No. 034, 2016, Amending Section 23-354 of the Code of the City of Fort Collins Regarding Income Targets for the Land Bank Program.

The purpose of this item is to amend City Code to allow communities developed on parcels from the Land Bank Program to be targeted to rental households making 60% area median income, as long as the overall community targets still average no more than 50% area median income. While this does increase the allowable income limits for some units to add flexibility, it requires the resulting community to meet the original target range overall.

- 10. First Reading of Ordinance No. 035, 2016, Amending the Code of the City of Fort Collins to Clarify On-Bill Utility Financing Terms and Increase the Outstanding Loan Balance Available for the On-Bill Utility Loan Program.

The purpose of this item is to revise the available capital funds for On-Bill Financing (OBF) program from Utilities reserve funds and to clarify interest rate language in relevant Utilities rate ordinances. Between July 2015 and December 2015, the rate of loan participation in the Home Efficiency Loan Program (HELP, aka OBF) increased by 500% over the previous 2+ years.

OBF capital comes from Light & Power and Water reserve funds, with the source being determined by the project type. The funding is a "balance sheet transaction," where the funds are accounted for by moving from reserves to accounts receivable. As such, loan funding is not a typical expenditure or a budget item. Council has authorized Utilities to maintain a maximum outstanding balance of \$800,000 for the loan program. Based on staff's recommendation, the Ordinance would increase the maximum outstanding balance limit to \$1.6M. The additional funding would be loaned at a 4% interest rate, which is within the range approved by Council for the program in January 2015 and remains the Chief Financial Officer's recommendation. Staff plans to return to Council in conjunction with the 2017 rate ordinance with options and recommendations for potential transition to third party capital for OBF.

- 11. Items Relating to the Maverik First Annexation.

- A. Resolution 2016-024 Setting Forth Findings of Fact and Determinations Regarding the Maverik First Annexation.

- B. Public Hearing and First Reading of Ordinance No. 036, 2016, Annexing the Property Known as the Maverik First Annexation to the City of Fort Collins, Colorado.

The purpose of this item is to annex 1.26 acres located at 4333 East Mulberry Street at the southeast quadrant of I-25 and State Highway 14. The parcel is a portion of the America's Best Value and Inn and Suites hotel. The Initiating Resolution was adopted on February 9, 2016. The property is located within the I-25 Corridor Plan. A related item to zone the annexed property is presented as the next item on this Agenda.

12. Public Hearing and First Reading of Ordinance No. 037, 2016, Amending the Zoning Map of the City of Fort Collins and Classifying for Zoning Purposes the Property Included in the Maverik First Annexation to the City of Fort Collins.

The purpose of this item is to zone the property included in the Maverik First Annexation into the General Commercial zone district.

This item is a quasi-judicial matter and if it is considered on the discussion agenda it will be considered in accordance with the procedures described in Section 1(d) of the Council's Rules of Meeting Procedures adopted in Resolution 2015-091.

13. First Reading of Ordinance No. 038, 2016, Authorizing the Conveyance of an Access Easement on City Property to Peter and Crystal Harper.

The purpose of this item is to authorize the conveyance of an access easement on City Property to a property owner to use as a driveway access to their residential property. The City of Fort Collins owns a property on Highway 14 near the Munroe Tunnel upstream from the Water Treatment Plant #1 property. The property was purchased in 1977, in order to manage and protect the City's water supply. The Harpers own a property adjacent to the City property on which they are building a residential home. The Harpers discovered that a portion of the driveway constructed for their home encroached on the City property. The property owners ceased construction and contacted the City of Fort Collins Real Estate Department to acknowledge the encroachment and request an easement. This Ordinance would authorize City staff to process the conveyance of an access easement to Mr. and Mrs. Harper for the 8,400 square foot area of encroachment of the driveway.

14. Resolution 2016-025 Approving an Amendment to the Bylaws of the Northern Colorado Regional Airport Commission.

The purpose of this item is to consider a resolution approving an amendment to the Northern Colorado Regional Airport Commission Bylaws. The amendment will allow formation of subcommittees or work groups to provide research assistance or recommendations to the Commission.

15. Resolution 2016-028 Authorizing an Intergovernmental Agreement Between the City of Fort Collins and the Town of Windsor for the Exchange of Judicial Services and Appointing a Temporary Judge.

The purpose of this item is to authorize an intergovernmental agreement with the Town of Windsor for judicial services to be used in the event that a conflict of interest or other circumstance prevents the Municipal Judge and temporary judge from hearing a particular Municipal Court case.

16. Resolution 2016-026 Adopting the 2016 Boards and Commissions Manual.

The purpose of this item is to adopt the amended Board and Commission Manual in its entirety. Specific changes include a new Periodic Review Procedure and a trial period of one year to modify Work Plan due dates from November 30 to September 30.

17. Resolution 2016-027 Appointing Tom Rock to the Golf Board.

The purpose of this item is to appoint Tom Rock to the Golf Board to fill a vacancy created through the resignation of Ann Cross.

18. Routine Deed/Easement.

The purpose of this item is to have Council accept three Deeds of Dedication for road right-of-way for East Prospect Road.

END CONSENT

- **CONSENT CALENDAR FOLLOW-UP**

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

- **STAFF REPORTS**

- A. Homelessness. (staff: Jeff Mihelich, Beth Sowder, Vanessa Fenley, Homeward 2020 Director)
- B. Transfort: Gateway Award and Ridership Increase. (staff: Kurt Ravenschlag)

- **COUNCILMEMBER REPORTS**

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

Discussion Items

The method of debate for discussion items is as follows:

- Mayor introduces the item number, and subject; asks if formal presentation will be made by staff
- Staff presentation (optional)
- Mayor requests citizen comment on the item (three minute limit for each citizen)
- Council questions of staff on the item
- Council motion on the item
- Council discussion
- Final Council comments
- Council vote on the item

Note: Time limits for individual agenda items may be revised, at the discretion of the Mayor, to ensure all citizens have an opportunity to speak. **Please sign in at the table in the back of the room.** The timer will buzz when there are 30 seconds left and the light will turn yellow. It will buzz again at the end of the speaker's time.

19. ~~First Reading of Ordinance No. 040, 2016, Authorizing the Acquisition by Eminent Domain Proceedings of Certain Lands Necessary to Construct Public Improvements in Connection with the Prospect Road and College Avenue Intersection Improvements Project.~~ (staff: Dean Klingner, Lindsay Kuntz, Dan Woodward; 5 minute staff presentation; 20 minute discussion)

THIS ITEM HAS BEEN WITHDRAWN FROM CONSIDERATION

~~The purpose of this item is to obtain authorization from City Council to use eminent domain, if deemed necessary, to acquire property interests needed to construct improvements to the intersection of Prospect Road and College Avenue. The Prospect Road and College Avenue Intersection Improvements Project is a collaborative project between the City of Fort Collins and Colorado State University (CSU). The project will construct road and intersection improvements, multimodal enhancements, utility improvements, and access control improvements. These improvements will be done in conjunction with the West Central Corridor Plan. Colorado State University (CSU) is developing a medical center on its property at the northwest corner of the College Avenue and Prospect Road intersection. This development will require the construction of ultimate road improvements adjacent to its development and within Prospect Road. The improvements to be made at the northwest corner have presented an opportunity for the City to construct other needed multimodal improvements at the intersection. In order for the City to construct these improvements, the City will need to acquire certain property interests adjacent to the project area. The acquisitions will include right-of-way and temporary easements from approximately eight property owners. Staff has met with the affected owners and is working to address individual property owner considerations.~~

~~Timely acquisition of the property is necessary to meet the anticipated construction schedule. Staff fully intends to negotiate in good faith with the affected owners and is optimistic that all property negotiations can be completed prior to the start of the Project. Staff is requesting authorization of eminent domain for all property acquisitions for the Project only if such action is deemed necessary.~~

20. Second Reading of Ordinance No. 030, 2016, Regarding Adoption of a New Article VIII of Chapter 5 of the Code of the City of Fort Collins Involving the Establishment and Resolution of Construction Defect Claims. (staff: Tom Leeson; 3 minute staff presentation; 30 minute discussion)

This Ordinance, adopted on First Reading on March 1, 2016, by a vote of 4-2 (Nays: Cunniff, Overbeck; Stephens absent) amends City Code to clarify that the failure to substantially comply with the City Building Code may not be used to support or prove any construction defect claim; to require provision of additional information to residential unit owners prior to any legal action involving a construction defect claim; and to prohibit modifying or eliminating any requirement for alternative dispute resolution in a common interest community declaration that meets certain requirements.

21. Resolution 2016-029 Authorizing the City Attorney to Join in Litigation in Support of the Environmental Protection Agency's Clean Power Plan Rule as an Amicus Curiae. (staff: Lucinda Smith, 2 minute staff presentation; 10 minute discussion)

The purpose of this item is to seek City Council approval of a Resolution authorizing the City Attorney to join, on behalf of the City, the Amicus Brief being prepared on behalf of multiple local governments, expressing support for implementation of the federal Clean Power Plan. Participation will allow Fort Collins to emphasize the vital nature of the Clean Power Plan rules for public health and welfare protections and the opportunity posed by our nation's on-going transition to clean energy.

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

- **OTHER BUSINESS**

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

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

- **ADJOURNMENT**

Every Council meeting will end no later than 10:30 p.m., except that: (1) any item of business commenced before 10:30 p.m. may be concluded before the meeting is adjourned and (2) the City Council may, by majority vote, extend a meeting until no later than 12:00 a.m. for the purpose of considering additional items of business. Any matter which has been commenced and is still pending at the conclusion of the Council meeting, and all matters scheduled for consideration at the meeting which have not yet been considered by the Council, will be continued to the next regular Council meeting and will be placed first on the discussion agenda for such meeting.