

AGENDA ITEM SUMMARY

January 3, 2017

City Council

STAFF

Wanda Winkelmann, City Clerk

SUBJECT

Consideration and Approval of the Minutes of the December 6, 2016 Regular Council Meeting and the December 13, 2016, Adjourned Council Meeting.

EXECUTIVE SUMMARY

The purpose of this item is to approve the minutes from the December 6, 2016, Regular Council meeting and the December 13, 2016, Adjourned Council meeting.

ATTACHMENTS

1. December 6, 2016 (PDF)
2. December 13, 2016 (PDF)

December 6, 2016

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: Darin Atteberry, Daggett, Winkelmann

● **AGENDA REVIEW: CITY MANAGER**

City Manager Atteberry stated Consent Agenda Item No. 7, *Resolution 2016-089 Stating the Intent of the City of Fort Collins to Annex Certain Property and Initiating Enclave Annexation Proceedings for Such Property to be Known as the Rennat Annexation*, has been withdrawn due to an incorrect legal description in the Resolution. Also, a motion to adjourn to December 13 has been added to the agenda.

Eric Sutherland withdrew Item No. 6, *Items Relating to Capital Improvement Expansion Fees*, from the Consent Agenda.

● **CITIZEN PARTICIPATION**

Bob Kost opposed short term rentals in neighborhoods.

Eric Sutherland discussed Item No. 8, *Resolution 2016-090 Authorizing the Execution of an Intergovernmental Agreement Between the City of Fort Collins and the Town of Timnath Defining the Responsibility for the Future Construction of Larimer County Road 5/Main Street Adjacent to Serratoga Falls Subdivision*, stating it is illegal to obligate a future Council to appropriate and expend money.

Liz Derbyshire opposed short term rentals in neighborhoods.

Andrew Bondi discussed a new organization called Fort Collins for Progress, formed to bring members of the community together to engage in local policy making.

Glen Akins stated he is on the broadband citizens' committee and supported the retail model.

Lacey Brunmeyer discussed Fort Collins for Progress and thanked Council for its work.

James K. Lane stated he is on the broadband citizens' committee and encouraged the placement of an item on the April ballot regarding broadband. He supported the creation of a fifth public utility for broadband and suggested the City should design, build, and own the conduit infrastructure and the fiber optic infrastructure.

Jana Newman requested Council stand in solidarity against racism and hatred in the community.

Teresa Egbert expressed concern about the safety of the city's drinking water with regard to fluoride.

Paul Anderson questioned why the U + 2 ordinance is now being reviewed.

Mike Pruznick discussed human rights, the use of GPS on mosquito spraying trucks, the Federal Railroad Administration meeting, and the overall culture issues within the City organization.

Thomas Edwards thanked Fort Collins Police for their upstanding work and stated the U + 2 ordinance has improved neighborhoods.

- **CITIZEN PARTICIPATION FOLLOW-UP**

Councilmember Cunniff expressed concern about the terms of the U + 2 study and noted a work session on the topic will occur on December 13. He requested statistics on nuisance violations and housing costs.

Councilmember Campana noted staff has been travelling to other communities to research broadband. Council needs to examine the U + 2 issue as it has been brought forth by community members. He requested information regarding the City's police policies in dealing with immigration. Police Chief John Hutto replied the policy is to first create an atmosphere of trust within the community with a focus on criminality; however, nothing in the policy prevents Police Services from cooperating with federal immigration officials. Immigration status is not used as a basis to detain, stop or arrest individuals.

Councilmember Martinez noted the Sherriff's Office is usually charged with dealing with any illegal immigrants who are arrested or detained as part of a regular traffic stop or other offense.

Councilmember Stephens stated she is looking forward to working with Fort Collins for Progress. Council will be looking at all sides of the U + 2 topic before any changes are made. She discussed the due diligence efforts of City staff regarding broadband.

Councilmember Martinez reiterated the importance of a balanced approach in looking at U + 2.

Mayor Pro Tem Horak noted the U + 2 issue is a study and no suggested action is currently recommended. He commented on the staff response to Ms. Egbert's comments regarding the City's policies around fluoride.

Councilmember Cunniff asked about neighborhood involvement and attendance at meetings regarding the U + 2 issue. He was in attendance at a meeting with the study funding partners, but no neighborhood meetings have been held yet.

Mayor Troxell noted the broadband issue will be discussed on December 20.

- **CONSENT CALENDAR**

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

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

1. **Consideration and Approval of the Minutes of the November 1 and November 15, 2016, Regular Council Meetings and the November 29, 2016 Adjourned Council Meeting. (Adopted)**

The purpose of this item is to approve the minutes from the November 1 and November 15, 2016 Regular Council meetings and the November 29, 2016 Adjourned Council meeting.

2. **Second Reading of Ordinance No. 127, 2016, Appropriating Prior Year Reserves in the General Fund for the Purpose of Equipment Upgrades for FCTV. (Adopted)**

This Ordinance, unanimously adopted on First Reading on November 15, 2016, transfers \$30,000 in restricted PEG funds from FCTV (Cable 14) reserves to 2016 Budget to cover needed equipment upgrades.

3. **Items Relating to the Completion of the 2016 Fall Cycle of the Competitive Process for Allocating City Financial Resources to Affordable Housing Activities Utilizing Funds from the Federal Community Development Block Grant (CDBG) Program, Federal HOME Investment Partnership (HOME), and the City's Affordable Housing Fund (AHF). (Adopted)**

A. Second Reading of Ordinance No. 128, 2016, Appropriating Unanticipated Revenue in the Community Development Block Grant Fund.

B. Second Reading of Ordinance No. 129, 2016, Appropriating Unanticipated Revenue in the HOME Investment Partnerships Fund.

These Ordinances, unanimously adopted on First Reading on November 15, 2016, appropriate an adjustment of to the FY2016 HOME Participating Jurisdiction Grant from the Department of Housing and Urban Development (HUD) and Community Development Block Grant (CDBG) Program Income from FY2015.

4. **Second Reading of Ordinance No. 130, 2016, Amending Certain Labeling and Testing Provisions of the Code of the City of Fort Collins Related to Retail Marijuana Businesses to Eliminate Duplication of and Conflict with State Law. (Adopted)**

This Ordinance, unanimously adopted on First Reading on November 15, 2016, repeals marijuana testing provisions in the City Code to be in conformity with state law.

5. **Second Reading of Ordinance No. 131, 2016, Declaring Certain City-Owned Property as Road Right-of-Way for Timberline Road. (Adopted)**

This Ordinance, unanimously adopted on First Reading on November 15, 2016, declares Tract B of Community Recycle Center Subdivision, which is owned by the City, as road right-of-way. The Timberline Road project is currently being constructed on the property. The City owns a parcel of property located at the southwest corner of Timberline Road and Prospect Road. In 2015, the City designed ultimate improvements for Timberline Road across a portion of the City's property. This Ordinance officially establishes this portion needed for Timberline Road on the City's property as public road right-of-way.

6. **Resolution 2016-089 Stating the Intent of the City of Fort Collins to Annex Certain Property and Initiating Enclave Annexation Proceedings for Such Property to be Known as the Rennat Annexation. (Withdrawn)**

This is a City-initiated request to annex 57.83 acres at 6015 South Timberline Road into the City of Fort Collins. The parcel became an enclave with the annexation of the Hansen Farm Annex on May 21, 2013. As of May 21, 2016, the City became authorized to annex the enclave by ordinance in accordance with State Statute 31-12-106. The Rennat Annexation abuts the Union Pacific Railway and Southridge Golf Course to the west. The requested zoning for this annexation is the Low Density Mixed-Use (LMN) zone district, which is in consistent with the City of Fort Collins Structure Plan. The surrounding properties are existing residential, educational, and agricultural land uses in the City of Fort Collins. The property owner has expressed no objections to the annexation.

The proposed Resolution makes a finding that the property at issue has been completely contained within the boundaries of the City for not less than three years, initiates annexation proceedings, sets a hearing date for the annexation ordinance and directs the City Clerk to publish notice. The hearing will be held at the time of first reading of the annexation and zoning ordinances; not less than thirty days of prior notice is required by state law.

7. **Resolution 2016-090 Authorizing the Execution of an Intergovernmental Agreement Between the City of Fort Collins and the Town of Timnath Defining the Responsibility for the Future Construction of Larimer County Road 5/Main Street Adjacent to Serratoga Falls Subdivision. (Adopted)**

The purpose of this item is to authorize the Mayor to execute an Intergovernmental Agreement (IGA) with the Town of Timnath defining the responsibility for the future construction of Main Street/CR5 adjacent to Serratoga Falls Subdivision. Timnath approved Serratoga Falls Subdivision along, and immediately adjacent to, Main Street/Larimer County Road 5, north of Prospect Road. Timnath entered into a Subdivision Improvement Agreement with the developers of Serratoga Falls requiring the Developers to improve Main Street/CR5 per the Timnath Land Development Code. Portions of Main Street/CR5 lie within Timnath's jurisdiction, and portions lie within Fort Collins' jurisdiction. Both the Town and the City seek to have Main Street/CR5 improved to comparable standards and cross-sections for an ultimate four lane arterial.

8. **Resolution 2016-091 Making Appointments to Various Boards, Commissions and Authorities of the City of Fort Collins. (Adopted)**

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

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

● **END CONSENT**

● **COUNCILMEMBER REPORTS**

Councilmember Overbeck reported on the National League of Cities conference and a meeting with Zagster in which free bicycle subscriptions for low income residents was discussed. He also discussed a meeting on heroin addiction and the importance of substance abuse treatment in the community. He thanked staff for its memo on equity and inclusion.

Councilmember Cunniff reported on the Legislative Review Committee meeting.

Councilmember Stephens reported on a Rec-to-Tech program and an Inclusive Innovation program at the National League of Cities.

Councilmember Martinez reported on the Homelessness Human Rights meeting at CSU and the ASCSU/City Council meeting.

Mayor Pro Tem Horak reported on the ASCSU/Council meeting and a discussion regarding the possibility of an increase to student fees to help provide Transfort seven days a week. He discussed the National League of Cities conference and noted the 3rd I-25 climbing lane will soon be open in Berthoud.

Councilmember Campana discussed the City's Home Efficiency Loan program, noting homeowners were required to front the money to contractors and then be reimbursed. A new loan program has been set up through Elevations Credit Union to allow contractors to be paid directly without homeowners having to front costs. He also discussed the Nature in the City program and showed a video of turkeys in Pine Ridge Natural Area.

● **DISCUSSION ITEMS**

9. **Consideration of Two Appeals of the Planning and Zoning Board Decision to Approve the Brick Stone Apartments on Harmony Project Development Plan. (Planning and Zoning Board Decision Upheld, with conditions)**

The purpose of this item is to consider two appeals of the Planning and Zoning Board (the "Board") decision to approve the Brick Stone Apartments on Harmony Project Development Plan. On October 27, 2016, three appellants, Amanda Morgan, David Agee and David Ramsey filed two separate Notices of Appeal of the Planning and Zoning Board decision approving the Brick Stone Apartments on Harmony Project Development Plan.

Appeal No. 1 - Amanda Morgan

This appeal asserts that the Board failed to properly interpret and apply Land Use Code ("LUC") Section 1.2.2(C). Specifically, that the access proposed to be shared by Brick Stone and Harmony Road Apartments creates safety issues for the residents of Harmony Road Apartments.

Appeal No. 2 - David Agee and David Ramsey

This appeal makes the following two assertions:

- 1. The Board failed to properly interpret and apply LUC Sections 1.2.2 (C), (E), (I), (M), and (N). Specifically, this appeal raises issues related to traffic safety, pedestrian safety, environmental impact, and storm drainage.*
- 2. The Board failed to conduct a fair hearing, by considering evidence relevant to its findings which was grossly misleading. Specifically, the Appellants intend to introduce new testimony (1) from a traffic engineer that Brick Stone's traffic study was grossly misleading as to current and future traffic conditions; and (2) from a stormwater engineer that the Drainage Report for the project does not address the dangers of building such a project in close proximity to the floodway.*

Mayor Troxell provided an overview of Council's role as a quasi-judicial body for the consideration of appeals.

City Attorney Daggett reviewed the appeal process.

Parties-in-interest on both sides of the appeal identified themselves and Mayor Troxell noted the two appeals will be consolidated in this hearing.

Tom Leeson, Planning, Development and Transportation, provided a project overview of the Brick Stone Apartments. The proposal is for a 3-story multi-family apartment building consisting of 116 dwelling units with parking located at 201 East Harmony. The property will be accessed off Harmony via a shared access drive with the Harmony Road Apartments. The Planning and Zoning Board approved the project in October and two appeals were subsequently filed by Amanda Morgan, Harmony Road Apartments, and David Agee and David Ramsey from Fairway Estates. Leeson summarized the appeal allegations and discussed the staff responses to the allegations.

Councilmember Cunniff stated he observed the massing and positioning of the existing building and site plan relative to the drive and the vegetation on the site at the site visit.

Councilmember Overbeck stated he walked the property and observed vegetation during the site visit.

Councilmember Campana stated he observed the access road, proposed buffer area, and proposed massing in relation to the existing building at the site visit.

Mayor Troxell stated he observed the shared drive and the general contour of the property at the site visit.

David Ramsey requested 30 minutes for presentations, rather than 20 minutes.

A member of the applicant team agreed but stated he would like additional time to respond to any new evidence.

Mayor Troxell noted the applicant team could object to any new evidence.

David Agee stated the appellants will have no new evidence.

Mayor Troxell agreed to allow 30 minutes for presentations.

APPELLANT PRESENTATION

Mandy Morgan, Harmony Road Apartments, stated Harmony Road Apartments houses 24 individuals with physical and neurological disabilities. Residents have assumed the lot in question would develop as some type of an office use rather than residential and discussed the use of the drive as an outdoor space for Harmony Road Apartments tenants. Ms. Morgan stated the drive has become a safe backyard for pet exercise and physical therapy sessions for residents. She opposed the proposed development primarily due to safety concerns for Harmony Road Apartments residents.

David Ramsey discussed the history of Fairway Estates and stated a business use would be more suitable for the location. He discussed the site access off Harmony and detailed safety concerns related to the corridor and access to sites on the north side of Harmony Road.

David Agee discussed storm drainage for the project and expressed concern regarding the stormwater improvement design and the impact of a significant storm event on lives and property. He stated the land should be a natural area rather than a development, given the amount of wildlife species which utilize the site.

Kathleen Jones expressed concern regarding pedestrian safety, particularly for disabled citizens and children. She also expressed concern regarding the development allowing dogs given the wildlife use of the area.

APPLICANT PRESENTATION

Russ Lee, Ripley Design, discussed the progression of the plan and its response to staff and neighborhood concerns. He stated the traffic impact study was scoped and approved by City staff and the project meets all FEMA and Land Use Code flood standards. The applicant far exceeds its mitigation requirements in terms of landscaping which will improve the habitat. Regarding the pedestrian safety allegations, Mr. Lee stated no specific Land Use Codes were cited in the Notices of Appeals. The Harmony Corridor Access Control Plan dictates a shared access for Harmony Road Apartments and this development and he discussed the pedestrian safety improvements that will be provided by the project. The traffic impact study concluded all key intersections will operate acceptably at full build out, trips are approximately half that of a mixed-use plan, the project meets all transportation requirements of the Land Use Code and meets the level of service standard for bicycles, pedestrians, and transit.

Eric Bracke, ELB Engineering, discussed the traffic study and stated most U-turns are made in a safe and reasonable manner and the project complies with applicable access control plans.

APPELLANT REBUTTAL

Mr. Agee stated the Fairway Estates residents are not purporting the land should never been developed; however, they have safety and environmental concerns. The real-world situation is dangerous and increased traffic cannot improve safety.

Ms. Morgan continued to express concern regarding safety issues and objected to the proposed raised sidewalk.

Mr. Agee stated this is the wrong project on the wrong property and requested the appeal be upheld.

Sandy Hennen stated the area should be a natural area rather than a development given the wildlife use of the area.

APPLICANT REBUTTAL

Mr. Bracke addressed Ms. Morgan's concerns regarding traffic use of the drive aisle, noting it is not a high volume driveway. The affected intersections meet level of service standards.

Nick Haws, Northern Engineering, stated the conversion of sheet flow to concentrated outfall is an ordinary and customary process. He stated the revised outfall removes any potential stormwater impacts across Fairway Estates property and noted the project is consistent with

federal requirements and state law and meets or exceeds all Land Use Code stormwater regulations.

Mr. Lee discussed the habitat enhancements for the buffer area and stated this project is going to improve safety in the area.

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

Councilmember Cunniff asked about the status of Mail Creek and its mapping. He asked if an impoundment changes the designation of a stream bed from creek to something else. Pete Wray, Senior City Planner, replied the aerial image had a label on Mail Creek from Google Earth.

Stephanie Blochowiak, Environmental Planner, stated the City has maps which indicate where Mail Creek and its tributaries exist. The formation of this particular feature is due to the Larimer County No. 2 Canal and the New Mercer Ditch, both of which have been piped and daylighted at this location. Shane Boyle, Stormwater Engineer, stated naturalized creeks are identified via a CSU study. For Mail Creek specifically, the designation started at the southern face of the Mail Creek dam, which is downstream of these impoundments. This is not designated as native Mail Creek from a stormwater standpoint; it is designated as the primary drainage system of the Mail Creek basin.

Councilmember Cunniff suggested a future improvement for the Land Use Code would be to designate tributary stream beds more specifically. He asked if the shared drive is already granted as an easement based on the existing development. Leeson replied in the affirmative.

Councilmember Cunniff asked if there is a way to account for U-turn movements. Martina Wilkinson, Assistant City Traffic Engineer, replied this traffic impact study looked at the traffic as if the U-turns might not occur, despite the fact they are legal and permitted. Joe Olson, City Traffic Engineer, stated U-turns are counted as left turns for turning movement counts.

Councilmember Cunniff asked if there are best practices regarding pedestrian crossings at right-in, right-out drives. He expressed concern regarding the sight obstruction caused by the existing building. Wilkinson replied the stop sign typically goes behind the sidewalk to allow for appropriate sight distance.

Councilmember Cunniff asked if the newest stormwater deceleration, detention, and settling technologies will be used. Boyle replied in the affirmative.

Councilmember Cunniff asked about the staff assessment of the proposed change in the location and direction of outflow. Boyle replied the size of the outfall did not change, just the location, and staff has approved the design.

Councilmember Martinez asked how many streets exist in Fort Collins where U-turns are required due to right-in, right-out movements. Wilkinson replied it is not an unusual design and it is one of the strategies used as infill projects occur. The strategy is also safer than allowing left turns across traffic in more locations.

Councilmember Martinez asked what type of use generates more traffic. Wilkinson replied commercial or office uses typically generate more traffic.

Councilmember Martinez asked about the number of accidents related to U-turns. Wilkinson replied there were no reported crashes related to U-turns at Harmony and College, one at JFK Parkway and Harmony, and zero at College and Palmer in the last six years.

Councilmember Martinez asked about the level of service at the Harmony and College intersection. Wilkinson replied it is at a level of service D, which meets standards.

Councilmember Martinez asked about the funding source for the new bus stop. Wilkinson replied the developer will fund the new bus stop. Transfort has requested a stop with a bus pull-out; the stop will meet all Transfort and ADA standards.

Councilmember Martinez asked about the raised crosswalk. Wilkinson replied the intent is to ensure low vehicular speeds in the shared access drive. Mr. Lee replied it is not in the planning documents but it something the applicant is willing to add for safety reasons; it will act to slow traffic. The neighboring property did not request it.

Councilmember Stephens asked if the crosswalk would be wide enough for a wheel chair. Mr. Lee replied in the affirmative.

Councilmember Martinez asked about the project meeting FEMA and City standards. Boyle replied the project meets or exceeds all FEMA and Fort Collins standards.

Councilmember Overbeck asked if the crosswalk would accommodate someone in a wheelchair with a service dog. Mr. Lee replied in the affirmative.

Councilmember Overbeck asked if walking or movement speeds are tracked at crosswalks. Wilkinson replied community areas with special needs can be addressed on a case-by-case basis. In this case, Traffic Operations staff has met with Harmony Road Apartments residents regarding the intersection at Harmony and JFK and has made changes to that intersection as a result.

Councilmember Overbeck discussed the importance of emphasizing inclusivity and equity regarding the proposed development.

Councilmember Overbeck asked if stormwater modeling was done. Boyle replied hydrologic modeling is required as part of any development and stated Fort Collins' standards are more stringent than any other Front Range community.

Councilmember Martinez asked about the potential impact of the development on existing wildlife species. Aaron James, Cardno, stated existing wildlife is common in urban environments and the proposed project and buffer will not impact the ponds; there will be a net benefit of vegetative resources.

Councilmember Overbeck asked Mr. James if he has any accounting of wildlife species using the area. Mr. James replied the only accounting done for the ecological characterization study involves a consultation with the U.S. Fish and Wildlife Service and Colorado Natural Heritage Program.

Councilmember Overbeck asked if the proposed development would reduce the ability of wildlife to find refuge in the area. Mr. James replied in the negative, noting the existing species are urbanized.

Councilmember Stephens asked the applicant team if they met with Harmony Road Apartments residents. Mr. Lee replied mailings went out per the APO list and City requirements and two general neighborhood meetings were held.

Councilmember Campana asked if the APO list shows Harmony Road Apartments as one address or multiple. Mr. Lee replied it is one address and a representative from the apartments was at one of the meetings.

Councilmember Stephens asked the applicant team if the developer would be responsible for all snow removal in the shared drive. Mr. Lee replied in the affirmative.

Councilmember Stephens requested residents of the new project be made aware of the mobility issues of the neighboring apartments. Ben Massimo, developer, replied the project will be fully managed and residents will be made aware of neighboring properties. He stated three of the units will be fully handicap-accessible and all other units will be convertible.

Councilmember Overbeck asked if signage could be posted regarding impairments of residents and asked if the lighting plan is sufficient for individuals with disabilities. Mr. Lee replied signage is possible and the applicant will work with staff. Regarding lighting, he stated the site plan meets the Land Use Code as far as illumination.

Councilmember Cunniff asked if Dial-a-Ride front door service would change. Leeson replied there is no reason that should change. Laurie Kadrich, Planning, Development and Transportation Director, replied Dial-a-Ride is contracted for front door service.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, that the Planning and Zoning Board conducted a fair hearing in its consideration of the Brick Stone Apartments on Harmony PDP160019 and did not consider evidence relative to its decision that was substantially false or grossly misleading, and further that the Agee/Ramsey appeal alleging the Planning and Zoning Board did not conduct a fair hearing is hereby found to be without merit and is denied.

RESULT:	PLANNING AND ZONING BOARD HELD A FAIR HEARING [UNANIMOUS]
MOVER:	Gerry Horak, District 6
SECONDER:	Ross Cunniff, District 5
AYES:	Martinez, Stephens, Overbeck, Campana, Troxell, Cunniff, Horak

Councilmember Campana made a motion, seconded by Councilmember Martinez, to uphold the decision of the Planning and Zoning Board approving the Brick Stone Apartments on Harmony PDP160019 because the Board properly interpreted and applied the provisions of the City Code and Land Use Code and both the Morgan and Agee/Ramsey appeal are hereby found to be without merit and are denied.

Councilmember Campana commended the idea of the raised crosswalk but suggested Harmony Road Apartments residents be contacted regarding that. Additionally, he suggested a temporary construction access point which does not utilize the shared access drive.

Councilmember Campana stated the storm drainage issue has been adequately addressed and stated the traffic and roadway improvements provided by the project will increase safety in the area.

Councilmember Cunniff commended the LID vaults and stormwater treatments as state of the art and effective. He questioned the location of the raised sidewalk and stated there is some ambiguity around what constitutes Mail Creek as a Fossil Creek tributary.

Councilmember Campana commented on the placement of the raised crosswalk and noted the buffer is a recommended distance which fluctuates given the meandering of the stream. Blochowiak stated the project meets all standards for buffers and any necessary mitigation.

Councilmember Cunniff asked if plantings will obscure the buildings when looking from the pond area. Leeson replied in the affirmative.

Councilmembers discussed the raised crosswalk, the relocation of the discharge point, temporary construction access, signage and lighting.

Councilmember Campana suggested upholding the decision of the Planning and Zoning Board with those issues being addressed by staff at final plan level.

Councilmembers Campana and Martinez withdrew their motion.

Councilmember Campana made a motion, seconded by Councilmember Martinez, to add the following conditions to Council's upholding of the Planning and Zoning Board's approval of the Brick Stone Apartments on Harmony PDP160019: adding a raised crosswalk, revise the discharge location to be on property, create a temporary construction access, and develop signage and lighting appropriate for the neighboring property. He further moved that, except as so stated based on the evidence in the record and presented at this hearing, the Morgan and Agee/Ramsey appeals are hereby found to be without merit and are denied.

Mayor Pro Tem Horak expressed appreciation for the civility of speakers on both sides of the issue.

Councilmember Campana agreed with Mayor Pro Tem Horak and expressed appreciation for the speakers from Harmony Road Apartments.

Councilmember Martinez stated the new project should provide improvements for Harmony Road Apartments residents.

Councilmember Stephens stated the project will improve safety.

Councilmember Overbeck thanked the developers for their willingness to compromise on issues.

Mayor Troxell expressed appreciation for the appellants and willingness of the applicants to improve safety in the area.

RESULT:	PLANNING AND ZONING BOARD DECISION UPHELD, WITH CONDITIONS [UNANIMOUS]
MOVER:	Gino Campana, District 3
SECONDER:	Ray Martinez, District 2
AYES:	Martinez, Stephens, Overbeck, Campana, Troxell, Cunniff, Horak

10. **First Reading of Ordinance No. 133, 2016, Adopting the 2017 Classified Employees Pay Plan. (Adopted on First Reading)**

The purpose of this item is to recommend changes to the City's Classified Employee Pay Plan based on results of the annual market analysis. The City of Fort Collins utilizes a common compensation methodology to assess jobs, combine them into occupational groups and establish pay range structures. The result of this work is a Classified Employee Pay Plan which sets the minimum, midpoint and maximum of pay ranges within each occupational group. Each year, staff conducts a detailed analysis of benchmark data to determine if the market is moving sufficiently to recommend structure adjustments. Actual employee pay increases are awarded through a separate administrative process in accordance with the budgeted amount approved by Council. As a result of the market analysis, staff is recommending a 2.5% structure adjustment for all Skill Based/Step Level Jobs in the Classified Employee Pay Plan and no movement for Open Pay Range positions.

Teresa Roche, Chief Human Resources Officer, outlined the steps taken by the City to establish its pay plan annually. Open pay ranges will not move this year; however, step pay ranges will move.

Councilmember Stephens asked if there is a maximum raise someone could receive within a pay range. Kelly DiMartino, Assistant City Manager, replied that is determined by the individual's supervisor; however, raises cannot go above the 2.5% budget allocation.

Councilmember Stephens asked if cost of living adjustments are made. DiMartino replied in the negative.

Councilmember Cunniff asked about the distance from market regarding employee-only benefits. Roche replied the decision was made not to increase the premiums for employee-only plans as an incentive for that plan type.

Councilmember Cunniff asked if shifting between family and employee-only plans is incentivized under the City's market policy. DiMartino stated the definition of "market" for benefits is more complex than for compensation. She stated staff will be returning with additional analytics.

Councilmember Cunniff requested information about the overall net budget amount increase for pay and compensation figures and an itemized list of positions and pay increases for each. Roche confirmed those reports will be sent to Council soon.

Councilmember Overbeck asked about the lowest hourly wage earners. DiMartino replied some are at minimum wage.

Councilmember Overbeck suggested that should be increased.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to adopt Ordinance No. 133, 2016, on First Reading.

RESULT:	ORDINANCE NO. 133, 2016, ADOPTED ON FIRST READING [UNANIMOUS]
MOVER:	Gerry Horak, District 6
SECONDER:	Ross Cunniff, District 5
AYES:	Martinez, Stephens, Overbeck, Campana, Troxell, Cunniff, Horak

● **Motion to Extend the Meeting**

Councilmember Cunniff made a motion, seconded by Councilmember Campana, to extend the meeting past 10:30 PM in order to consider remaining agenda items.

RESULT:	ADOPTED [6 TO 1]
MOVER:	Ross Cunniff, District 5
SECONDER:	Gino Campana, District 3
AYES:	Stephens, Overbeck, Campana, Troxell, Cunniff, Horak
NAYS:	Martinez

12. **Items Relating to the Employment of the Municipal Judge. (Adopted on First Reading)**

- A. *Resolution 2016-092 Reappointing Kathleen M. Lane as Municipal Judge and Authorizing the Thirteenth Addendum to the Judge's Employment Agreement.*
- B. *First Reading of Ordinance No. 134, 2016, Amending Section 2-606 of the Code of the City of Fort Collins and Setting the Compensation of the Municipal Judge.*

The purpose of this item is to reappoint Kathleen M. Lane as Municipal Judge and establish compensation for 2017. City Council met in executive session on November 29, 2016, to conduct the performance review of Municipal Judge Kathleen M. Lane. Resolution 2016-093 reappoints Judge Lane for another two-year term to expire December 31, 2018 and authorizes the Mayor to execute an addendum to the Judge's employment agreement to reflect the change in term. Ordinance No. 134, 2016, establishes the 2017 compensation of the Municipal Judge.

Janet Miller, Human Resources, presented information regarding market data and the City's desire to include employee performance and remain competitive.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Martinez, to adopt Resolution 2016-092.

Councilmember Martinez commended Judge Lane on her work.

RESULT:	RESOLUTION 2016-092 ADOPTED [UNANIMOUS]
MOVER:	Gerry Horak, District 6
SECONDER:	Ray Martinez, District 2
AYES:	Martinez, Stephens, Overbeck, Campana, Troxell, Cunniff, Horak

Mayor Pro Tem Horak made a motion, seconded by Councilmember Stephens, to adopt Ordinance No. 134, 2016, on First Reading, with the amounts of \$117,152 and \$144,568 inserted as appropriate and to be effective January 1, 2017.

Councilmember Cunniff thanked Judge Lane for her outstanding work.

RESULT:	ORDINANCE NO. 134, 2016, ADOPTED ON FIRST READING [UNANIMOUS]
MOVER:	Gerry Horak, District 6
SECONDER:	Kristin Stephens, District 4
AYES:	Martinez, Stephens, Overbeck, Campana, Troxell, Cunniff, Horak

13. **First Reading of Ordinance No. 135, 2016, Amending Section 2-581 of the Code of the City of Fort Collins and Setting the Compensation of the City Attorney. (Adopted on First Reading)**

The purpose of this item is to establish the 2017 salary of the City Attorney. City Council met in executive session on November 29, 2016, to conduct the performance review of Carrie Daggett, City Attorney. This Ordinance sets the 2017 compensation of the City Attorney.

Janet Miller, Human Resources, presented information regarding market data and the City’s desire to include employee performance and remain competitive.

City Attorney Daggett noted changes were made to the Ordinance to keep it consistent with the compensation ordinances for the Municipal Judge and City Manager.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Campana, to adopt Ordinance No. 135, 2016, on First Reading with the amounts of \$189,521 and \$226,821 inserted as appropriate and to be effective January 1, 2017.

Councilmember Cunniff thanked staff for transparency on the total compensation.

Mayor Pro Tem Horak commended City Attorney Daggett on her work and changes made in the City Attorney's Office.

Mayor Troxell and Councilmember Martinez commended City Attorney Daggett on her work.

RESULT:	ORDINANCE NO. 135, 2016, ADOPTED ON FIRST READING [UNANIMOUS]
MOVER:	Gerry Horak, District 6
SECONDER:	Gino Campana, District 3
AYES:	Martinez, Stephens, Overbeck, Campana, Troxell, Cunniff, Horak

14. **First Reading of Ordinance No. 136, 2016. Amending Section 2-596 of the Code of the City of Fort Collins and Setting the Compensation of the City Manager. (Adopted on First Reading)**

The purpose of this item is to establish the 2017 compensation of the City Manager. City Council met in executive session on November 29, 2016, to conduct the performance review of Darin Atteberry, City Manager. This Ordinance sets the 2017 compensation of the City Manager.

Janet Miller, Human Resources, presented information regarding market data and the City’s desire to include employee performance and remain competitive.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Campana, to adopt Ordinance No. 136, 2016, on First Reading with the amounts of \$256,087 and \$311,480 inserted as appropriate and to be effective January 1, 2017.

Councilmember Cunniff expressed some concern regarding the compensation amount being higher than the state market; however, the City organization is running well and complemented City Manager Atteberry on his willingness to consistently improve.

Councilmember Campana supported the compensation increases and commended the work of the employees.

Councilmembers Stephens and Martinez commended City Manager Atteberry.

Mayor Pro Tem Horak commended City Manager Atteberry's work during tougher situations.

Mayor Troxell commended City Manager Atteberry's engagement with Council and employees.

RESULT:	ORDINANCE NO. 136, 2016, ADOPTED ON FIRST READING [UNANIMOUS]
MOVER:	Gerry Horak, District 6
SECONDER:	Gino Campana, District 3
AYES:	Martinez, Stephens, Overbeck, Campana, Troxell, Cunniff, Horak

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

15. **Items Relating to Capital Improvement Expansion Fees. (Adopted on First Reading)**

- A. *First Reading of Ordinance No. 132, 2016, Amending the Code of the City of Fort Collins to Increase the Amounts of Capital Improvement Expansion Fees Contained in Chapter 7.5 of the City Code so as to Reflect Inflation in Associated Costs of Services.*
- B. *First Reading of Ordinance No. 137, 2016, Amending Section 7.5-18 of the Code of the City of Fort Collins to Provide that the Street Oversizing Capital Improvement Expansion Fee will be Increased or Decreased Annually Based on the Engineering News Denver Regional Construction Cost Index Instead of the Denver-Boulder Consumer Price Index for Urban Consumers.*

The purpose of this item is to update City Code Chapter 7.5 related to the annual inflation increases in the capital improvement expansion fees and the Neighborhood Parkland Fee established in Chapter 7.5. In Ordinance No. 132, 2016, the Community Parkland, Police, Fire Protection, and General Government capital improvement expansion fees and the Neighborhood Parkland Fee are being revised to reflect a 3.0% increase based on the change in the Denver-Boulder-Greeley Consumer Price Index (CPI) since the last adjustment. The Street Oversizing Capital Improvement Expansion Fee, however, is only being increased by 1.3% to reflect the change in the Engineering News Record Denver Regional Construction Cost Index (ENR) since the last adjustment of this fee. In Ordinance No. 137, 2016, Code Section 7.5-18 is being amended to reflect the City Council's past practice and intended future practice of basing the annual increases or decreases in the Street Oversizing Capital Improvement Expansion Fee on the ENR instead of the CPI, since the ENR is a better measure than the CPI of the changes in costs to construct street improvements in the City.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to adopt Ordinance No. 132, 2016, on First Reading.

Councilmember Campana discussed the timing of implementation for permits that are being held up by the City.

Councilmember Cunniff discussed moving the work session regarding capital expansion fees to an earlier date.

RESULT:	ADOPTED ON FIRST READING [6 TO 0]
MOVER:	Gerry Horak, District 6
SECONDER:	Ross Cunniff, District 5
AYES:	Stephens, Overbeck, Campana, Troxell, Cunniff, Horak
AWAY:	Martinez

Councilmember Cunniff made a motion, seconded by Councilmember Campana, to adopt Ordinance No. 137, 2016, on First Reading.

RESULT:	ADOPTED ON FIRST READING [6 TO 0]
MOVER:	Ross Cunniff, District 5
SECONDER:	Gino Campana, District 3
AYES:	Stephens, Overbeck, Campana, Troxell, Cunniff, Horak
AWAY:	Martinez

● **OTHER BUSINESS**

Councilmember Overbeck congratulated the City on its equity and inclusion memo and working efforts. He requested and received Council support to investigate hosting a “super” multi-cultural retreat in the community.

Mayor Pro Tem Horak stated he would like to see ideas for such a retreat prior to scheduling it.

Mayor Pro Tem Horak requested future clarification regarding whether or not people can hold signs during a quasi-judicial hearing.

Consideration of a motion to adjourn to 6:00 p.m., Tuesday, December 13, 2016.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Overbeck, to adjourn to 6:00 PM, Tuesday, December 13, 2016, to consider a possible executive session regarding legal questions, potential litigation and such other business as may come before the Council.

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

● **ADJOURNMENT**

The meeting adjourned at 11:10 PM.

Mayor

ATTEST:

City Clerk

December 13, 2016

COUNCIL OF THE CITY OF FORT COLLINS, COLORADO

Council-Manager Form of Government

Adjourned Meeting – 6:00 PM

● **CALL MEETING TO ORDER**

● **ROLL CALL**

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

ABSENT: Martinez

Staff present: Atteberry, Daggett, Winkelmann

- Council will consider a motion to adjourn into Executive Session.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff for Council to go into executive session for the purpose of meeting with the City's attorneys and City management staff to discuss the following matters as permitted under Section 2-31(a)(2) of City Code and Colorado Revised Statutes Section 24-6-402(4)(b): (1) specific legal questions related to litigation or potential litigation involving the City regarding federal and state review and permitting of water storage projects; and (2) the manner in which particular policies, practices or regulations of the City related to water supply treatment may be affected by existing or proposed provisions of federal, state or local law.

RESULT:	ADOPTED [UNANIMOUS]
AYES:	Stephens, Overbeck, Campana, Troxell, Cunniff, Horak
ABSENT:	Martinez

(Council went into executive session at this time and returned at 7:03 p.m.)

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff to adjourn the meeting to the conclusion of the work session to consider a possible executive session for the purpose of meeting with the City's attorneys and City management staff to discuss pending litigation involving the City.

RESULT:	ADOPTED [UNANIMOUS]
AYES:	Stephens, Overbeck, Campana, Troxell, Cunniff, Horak
ABSENT:	Martinez

(After the conclusion of the work session, Council reconvened at 10:03 p.m.)

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff to go into executive session for the purpose of meeting with the City's attorneys and City management staff to discuss pending litigation involving the City, as permitted under Section 2-31(2) of City Code and Colorado Revised Statutes Section 24-6-402(4)(b).

RESULT:	ADOPTED [UNANIMOUS]
AYES:	Stephens, Overbeck, Campana, Troxell, Cunniff, Horak
ABSENT:	Martinez

(Council went into executive session at this time and returned at 10:30 p.m.)

- **ADJOURNMENT**

The meeting adjourned at 10:30 PM.

Mayor

ATTEST:

City Clerk