

AGENDA ITEM SUMMARY

July 17, 2018

City Council

STAFF

Helen Matson, Real Estate Services Manager
Ingrid Decker, Legal

SUBJECT

First Reading of Ordinance No. 102, 2018, Amending Article IV, Division 2 of Chapter 23 of the Code of the City of Fort Collins Regarding Real Property.

EXECUTIVE SUMMARY

The purpose of this item is to amend various Sections of Article IV, Division 2 of Chapter 23 in City Code as it pertains to real property. Article IV was reviewed to find areas where the language could be improved and to make changes to these areas to streamline the process

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION

Section 23-111 - Authorization to sell real property.

Staff recommends that paragraph (a) specifically include the right to "exchange" property as well as to sell, convey, or otherwise dispose of any and all interests in property.

The other suggested change to this section is to paragraph (e). This section currently states that the Mayor is authorized to execute all leases, deeds and other instruments of conveyance; but sometimes it is useful for the City Council to be able to authorize the City Manager to sign such documents. Therefore, staff recommends amending paragraph (e) to specifically allow for that.

Section 23-112 – Form of deeds; signature and seal.

Section 23-112 currently states that instruments executed by the Mayor and attested by the City Clerk are deemed prima facie evidence of compliance with all the requirements of Division 2. Staff recommends adding instruments executed by the City Manager.

Section 23-117 – Acceptance of Deeds and Easements.

Staff recommends adding a new Section 23-117 regarding acceptance of deeds and easements, stating that instruments of conveyance properly executed by the Mayor or City Manager and attested by the City Clerk, or proof that the City paid consideration for property conveyed to the City whether or not the instrument of conveyance was executed by the City, will be prima facie evidence that the City has accepted ownership of the property interests conveyed by such instrument. The purpose of this change is to eliminate or at least reduce the number of items brought to the City Council on the "Routine Deeds and Easements" portion of the agenda for Council meetings, as the purpose and use of that process is confusing and the process may not be used consistently.

ORDINANCE NO. 102, 2018
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING ARTICLE IV, DIVISION 2 OF CHAPTER 23 OF THE CODE
OF THE CITY OF FORT COLLINS REGARDING REAL PROPERTY

WHEREAS, the provisions of Division 2 of Article IV of Chapter 23 of the City Code (“Division 2”) govern the disposition of real property by the City; and

WHEREAS, in 2014 the City Council adopted Ordinance No. 085, 2014, which amended Section 23-113 of the City Code to authorize the City Manager to enter into leases of City property for a term of five years or less without formal action by the City Council; and

WHEREAS, in 2017 the City Council adopted Ordinance No. 050, 2017, which amended Section 23-116 of the City Code to authorize the City Manager to grant a license or permit for the use of City property for up to five years, instead of one year; and

WHEREAS, Real Estate staff and the City Attorney’s staff have conducted an overall review of Division 2 and are recommending amendments that would update two provisions and add a new Code section; and

WHEREAS, the suggested changes would (1) clarify that the City Council can authorize the exchange of property; (2) state that the City Council can authorize the City Manager, as well as the Mayor, to sign instruments of conveyance; (3) add that such instruments signed by the City Manager and attested by the City Clerk shall be prima facie evidence of compliance with the requirements of Division 2; and (4) add a new Code section stating what constitutes prima facie evidence that the City has accepted ownership of a property interest; and

WHEREAS, the purpose of these amendments is to give the City additional flexibility in completing the necessary processes for the conveyance of property, and to reduce the need to use the “Routine Deeds and Easements” process at City Council meetings to formalize acceptance by the City of certain property interests; and

WHEREAS, the City Council finds it is in the best interests of the City to make amendments to Division 2 as described above.

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

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That Section 23-11 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 23-111. - Authorization to sell real property.

(a) The City Council is hereby authorized to sell, convey, exchange or otherwise dispose of any and all interests in real property owned in the name of the City, whether the interest in real property is obtained by tax deed or otherwise, provided that the City Council first finds, by ordinance, that such sale or other disposition is in the best interests of the City.

...

(e) The Mayor is authorized to execute all leases, deeds and other instruments of conveyance. The City Council may also authorize the City Manager to execute such instruments of conveyance.

Section 3. That Section 23-112 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 23-112. - Form of deeds; signature and seal.

All leases, deeds and other instruments of conveyance executed by “The City of Fort Collins, by the Mayor,” or “The City of Fort Collins, by the City Manager,” attested by the City Clerk with the official seal of the City affixed thereto and purporting to have been made pursuant to the provisions of this Division, shall be deemed prima facie evidence of due compliance with all the requirements of this Division.

Section 4. That Division 2 of Article IV of Chapter 23 of the Code of the City of Fort Collins is hereby amended by the addition of a new Section 23-117 to read in its entirety as follows:

Sec. 23-117. Acceptance of Deeds and Easements.

(a) All deeds, easements and other instruments of conveyance to the City executed by “The City of Fort Collins, by the Mayor,” or “The City of Fort Collins, by the City Manager,” attested by the City Clerk with the official seal of the City affixed thereto, shall be deemed prima facie evidence that the City has accepted ownership of the property interests conveyed by such deed, easement, or other instrument of conveyance.

(b) Proof that the City paid consideration for property interests conveyed to the City by a deed, easement or other instrument of conveyance, whether or not executed by the City as described in subparagraph (a), shall be deemed prima facie evidence that the City has accepted ownership of the property interests conveyed by such deed, easement, or other instrument of conveyance.

(c) The absence of the elements described in subparagraphs (a) and (b) shall not necessarily invalidate a deed, easement or other instrument of conveyance if there is other reliable evidence that the City has accepted ownership of the property interests intended to be conveyed.

Introduced, considered favorably on first reading, and ordered published this 17th day of July, A.D. 2018, and to be presented for final passage on the 21st day of August, A.D. 2018.

Mayor Pro Tem

ATTEST:

City Clerk

Passed and adopted on final reading on the 21st day of August, A.D. 2018.

Mayor

ATTEST:

City Clerk