

AGENDA ITEM SUMMARY

January 15, 2019

City Council

STAFF

Delynn Coldiron, City Clerk

SUBJECT

Consideration of the Minutes From the December 4, 2018, December 18, 2018 and January 2, 2019, Regular Council Meetings and the November 27, 2018 and January 8, 2019, Adjourned Council Meetings.

EXECUTIVE SUMMARY

The purpose of this item is to approve the minutes from the December 4, 2018, December 18, 2018 and January 2, 2019, Regular Council meetings and the November 28, 2018 and January 8, 2019 Adjourned Council meetings.

ATTACHMENTS

1. November 27, 2018 (PDF)
2. December 4, 2018 (PDF)
3. December 18, 2018 (PDF)
4. January 2, 2019 (PDF)
5. January 8, 2019 (PDF)

November 27, 2018

COUNCIL OF THE CITY OF FORT COLLINS, COLORADO

Council-Manager Form of Government

Adjourned Meeting – 6:00 PM

● ROLL CALL

PRESENT: Martinez, Stephens, Troxell, Cunniff, Horak

ABSENT: Summers, Overbeck

Staff Present: Atteberry, Daggett, Coldiron

2. **Consideration of an Appeal of the Zoning Board of Appeals Decision Regarding the Off-Premise Signs at 216 North College Avenue Variance Request to Not be Included in the Maximum Allowable Sign Square Footage. (Upheld)**

The purpose of this item is to consider an appeal of the Zoning Board of Appeals (the “Board”) decision on September 13, 2018 approving a variance to increase the sign allowance at 216 North College Avenue from 636 square feet to 1,836 square feet until October 1st, 2023. The property is located at the corner of North College Avenue and Walnut Street. The appeal was filed on September 27, 2018.

The appeal alleges the following:

- *The Board failed to properly interpret and apply Land Use Code (“Code”) Section 3.8.7.1(D)(3)*
- *The Board failed to properly interpret and apply Code Section 3.8.7.1(A)(3)*
- *The Board’s decision conflicts with the Federal Highway Beautification Act*

City Attorney Daggett outlined the appeal process.

Mayor Troxell asked parties-in-interest to identify themselves.

Sarah Mercer, attorney with Brownstein, Hyatt, Farber, Shrek, identified herself as the representative for Lamar Advertising.

Ben Cramer stated he represents 200 North College, LLC, the property owner.

Tom Leeson, Community Development and Neighborhood Services Director, stated this appeal is related to the Zoning Board of Appeals approval, with a condition that the variance is only granted for 5 years, of a request to increase the sign allowance at 216 North College from 636 square feet to 1,836 square feet.

The notice of appeal by Lamar Advertising states that the Zoning Board of Appeals failed to properly interpret and apply two Land Use Code sections relating to the total sign allotment within non-residential zone districts and the timing of non-conforming signs annexed into the City becoming compliant.

The appellant claims the first section does not specifically reference off-premise, or rooftop signs, as being included as types of signs that are limited by square footage; therefore, they should not count toward the property's overall sign square footage allotment. Staff's response to this claim is that off-premise and rooftop signs are specifically prohibited in the Sign Code and are therefore not expressly included in the list of allowed signs in that section. Leeson noted the definition of “sign” does include both on-premise and off-premise signs.

Leeson stated the appellant's second claim is that signs called out by the Federal Highway Beautification Act and the Colorado Outdoor Advertising Act cannot be required to be removed by a certain date.

Mayor Troxell noted none of the Councilmembers present attended a site visit and determined there were no procedural issues to be discussed.

Ms. Mercer stated the Lamar billboard has existed on the roof of the building at 216 North College for over 60 years and is comprised of four 12x25 grandfathered off-premise signs. She discussed the lease arrangement for the sign which includes an automatic year-to-year renewal unless one of the parties provides notice of termination.

Ms. Mercer stated the redevelopment plans submitted in 2017 depicted the billboard structure and did not impact or affect the billboard structure. Staff rejected those plans stating the billboard signs would use up all the tenant signage allotment for the property. At that point, the property owner submitted new plans without the billboards, which Lamar discovered in March 2018. Lamar then called City staff to inform them of Lamar's position that this would constitute an exercise of the City's power of eminent domain. As a result of discussions, the City, Lamar, and the land owner came to an agreement for the City to issue temporary on-premise sign permits for the tenants, allow for a variance process, and the ability to come before Council to get full resolution on the matter.

Ms. Mercer stated the variance for the full term of the lease was requested by Lamar and the land owner in June of 2018. The five-year variance that was granted takes the variance through to the expiration of the initial term of the lease. The full lease would include any renewals or extensions.

Ms. Mercer requested Council either modify the Zoning Board of Appeals decision to grant the variance for the full term of the lease or make a determination that a variance is unnecessary because the provision of the Code that governs sign allotment is intended to apply only to on-premise signs. She stated the Zoning Board of Appeals variance is insufficient with the condition because Lamar's property right is vested in the full term of the existing lease with the land owner. The remainder of Lamar's property interest beyond the initial term of the lease is not accounted for in the granted variance.

Ms. Mercer stated this is an exceptional case as this is the only rooftop billboard in the city; therefore, Lamar does not believe that granting the variance for the full term of the lease sets any type of precedent. She stated a variance for the full term of the lease will promote the purpose of the Land Use Code equally well or better than staff's interpretation because it will allow the provisions of the Code to be harmonized in a way that makes sense. Additionally, she stated the granting of the variance for the full term of the lease is nominal and inconsequential when considered in the context of the neighborhood and in the historical context.

Ms. Mercer stated it has been Lamar's experience with the City that there has never been an interpretation of the Code involving off-premise signage counting toward a tenant's on-premise sign allowance. She discussed the City's goal to eliminate billboard signage and stated a 2014 memo outlines billboard reduction options: purchasing them either by eminent domain where appropriate or by monetary means, natural attrition, or the voluntary removal of signs through redevelopment, and incentivized removal. She stated requiring the land owner to remove the

billboard structure as a condition for City approval of the redevelopment plan and the reissuance of the on-premise signs was an exercise of the City's power of eminent domain.

Councilmember Cunniff asked if staff feels the general definition of sign includes both on-premise and off-premise signs. Noah Beals, Senior City Planner, replied in the affirmative and stated staff's interpretation is that the off-premise signage does count toward the property's sign allowance. He stated properties are required to comply with Land Use Code standards, including the Sign Code, as they redevelop.

Mayor Troxell asked about the definition of the full lease term. Leeson replied the lease runs through 2023; however, it includes a clause that it can be continued for an unspecified amount of years beyond that based on an agreement between Lamar and the property owner.

Mayor Troxell asked why the billboard has not applied for historic designation. Ms. Mercer replied Lamar has not considered that option.

Councilmember Martinez asked about the staff interpretation that off-premise signage counts toward the sign allowance. Leeson replied it is an interpretation that the definition of "sign" includes both on-premise and off-premise signage.

Councilmember Martinez asked how that interpretation couples with the Federal Highway Beautification Act. Leeson replied the definition of 'sign' is not in conflict; the Act governs what a municipality can do with signs.

Ms. Mercer stated Colorado case law has indicated what a municipality can and cannot do with respect to billboards located along state highways.

Councilmember Martinez stated it seems this may be identified as a taking, or eminent domain. City Attorney Daggett stated this variance does not require the billboard to be removed, but rather that the property owner decide whether to retain the billboards, which far exceed the sign allowance, or retain the other signage on the site at the expiration of the variance.

Councilmember Martinez questioned the reason for the 5-year number. Leeson replied the Zoning Board of Appeals added that condition because it felt the property owner had an existing lease with Lamar that remained for 5 more years, thereby giving the property owner the option to not breach its contract with Lamar.

Ms. Mercer stated, after 5 years, the land owner will be forced to decide between giving up the ability to have tenant signage or to continue the lease with Lamar, which is a property right the land owner and Lamar both have. She stated the property right is vested for the full term of the lease, not just the initial term.

Councilmember Cunniff asked if either party could terminate the lease, with a 90-day notice, after the initial term. Ms. Mercer replied in the affirmative.

Mayor Pro Tem Horak asked if there is compensation provided to either party if the lease is terminated with that notice. Ms. Mercer replied in the negative.

Councilmember Cunniff made a motion, seconded by Mayor Pro Tem Horak, that Council finds that the Zoning Board of Appeals properly interpreted and applied the relevant Land Use Code

standards in approving, with one condition, the sign variance at 216 North College Avenue (The Exchange), ZBA180021, and application of the relevant Land Use Code sections does not conflict with the Highway Beautification Act or the Colorado Outdoor Advertising Act and that the decision is hereby upheld by Council, and further, that based on the evidence in the record and presented at this hearing, the appeal is hereby found to be without merit and is denied.

Councilmember Cunniff stated the definition of 'sign' does cover both on-premise and off-premise signs and noted the lease is voluntarily severable at the end of 5 years; therefore, the property owner has options and is not being forced into any decision.

Councilmember Martinez disagreed and stated loosely defining the Code by interpretation forces the property owners to decide whether there should be subsequent litigation. He stated evidence shows there could be a violation of the Highway Beautification Act or the Colorado Outdoor Advertising Act.

Mayor Pro Tem Horak stated the land owner should have known about the billboard lease and granting the variance is detrimental to the public good. He stated this issue is not the City's problem.

Mayor Troxell stated the Zoning Board of Appeals acted appropriately with granting the variance through the end of the initial lease. He agreed this is not a City issue nor is it related to eminent domain.

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| RESULT: | ADOPTED [4 TO 1] |
| AYES: | Stephens, Troxell, Cunniff, Horak |
| NAYS: | Martinez |
| ABSENT: | Summers, Overbeck |

● **OTHER BUSINESS**

Mayor Pro Tem Horak supported City Attorney Daggett and her staff contacting ACLU attorneys in the Mennonite locker issue to determine if there is some type of resolution. He stated an executive session is not necessary at this point.

Councilmember Cunniff agreed with Mayor Pro Tem Horak.

City Attorney Daggett stated that direction is helpful and may eliminate the need for any further discussion of the matter this evening. All Councilmembers agreed.

- **ADJOURNMENT**

The meeting adjourned at 7:00 PM.

Mayor

ATTEST:

City Clerk

December 4, 2018

COUNCIL OF THE CITY OF FORT COLLINS, COLORADO

Council-Manager Form of Government

Regular Meeting – 6:00 PM

● **ROLL CALL**

PRESENT: Martinez, Stephens, Summers, Overbeck, Troxell, Cunniff, Horak
Staff Present: Atteberry, Daggett, Coldiron

● **AGENDA REVIEW: CITY MANAGER**

City Manager Atteberry stated Item No. 10, *Items Relating to the Adoption and Amendment of the International Codes Relating to Buildings and Building Regulations*, will be moved to the Discussion Agenda.

Mayor Troxell noted Item Nos. 13, *Public Hearing and First Reading of Ordinance No. 159, 2018, Amending Chapter 26 of the Code of the City of Fort Collins to Adopt a New Fort Collins Stormwater Criteria Manual and Making Various Related Changes*, and 18, *Items Relating to Transfer of a Portion of the Platte River Power Authority (Platte River) Fiber Optic Network to the City of Fort Collins and Authorizing a New Franchise for Platte River Fiber*, are public hearings.

Mayor Troxell noted interpretation services are available for the meeting.

● **PUBLIC COMMENT**

David Root, Homeward Alliance Executive Director, thanked Council for its proclamation recognizing Homeless Awareness Day and announced related events. He thanked Council for its recent decision to fund an expansion of the Murphy Center's hours during cold months.

Adam Eggleston, Fort Collins Board of Realtors Government Affairs Committee, stated the Board is opposed to any outdoor or backyard firepit restrictions, regulations, or ban. He stated existing regulations can address any potential issues.

Mike Pruznick discussed the process of putting solar panels on his home.

Fernando Leyba, Hickory Village resident, requested a turn signal to enter his neighborhood from the northbound direction of College Avenue. He stated the median landscaping blocks views of oncoming traffic.

Luke McFetridge, Midtown Business Improvement District President, thanked Council for its support of the midtown area.

Peggy Wilson, Wilson Machining, requested a turn signal for the intersection of College and Hickory, citing safety concerns.

Ann Lance, Teaching Tree Executive Director, thanked Council for approving the 424 Pine Street lease on First Reading and discussed the services provided by Teaching Tree.

Eric Sutherland discussed Item No. 17, *Items Relating to Land Dedication and Payment in Lieu Fee Agreements with Thompson and Poudre School Districts*, and stated Poudre School District is overpaying for land in Wellington and is making mistakes with tax funds.

● **PUBLIC COMMENT FOLLOW-UP**

Mayor Troxell summarized the citizen comments.

Laurie Kadrich, Planning, Development, and Transportation Director, stated the Traffic Engineers made a cursory review of the Hickory and College intersection and staff agrees with citizens regarding the landscaping concerns; however, the area does not currently have the type of accident history that would lend itself to a left turn signal. She stated staff will continue to look at the area and reach out to neighbors.

Mayor Pro Tem Horak stated there are sight line issues along the entire corridor and requested staff provide information on the Hickory issue, as well as the median concerns.

Councilmember Cunniff requested a staff evaluation of traffic light timing on Willox and Conifer to ensure a more reliable timing gap for traffic going to and from Hickory.

Councilmember Martinez requested accident rates and Mayor Pro Tem Horak requested to be present at any meeting with staff and residents.

● **CONSENT CALENDAR**

Councilmember Martinez withdrew Item Nos. 15, *Items Relating to 2019 City Impact Fee Updates*, 16, *Items Relating to the Jefferson Street Improvements Project*, and 23, *Resolution 2018-120 Appointing a Councilmember to the Larimer County Behavioral Health Policy Council*, from the Consent Agenda.

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

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

2. **Second Reading of Ordinance No. 138, 2018, Appropriating Unanticipated Revenue in the Light and Power Fund for Purchased Power Expenses. (Adopted)**

This Ordinance, unanimously adopted on First Reading on November 20, 2018, appropriates unanticipated revenue in the Light and Power Fund to offset higher purchased power expenses experienced in 2018. The Light and Power Fund realized \$2.8M of unanticipated revenues in 2018, while purchased power expenses for 2018 have been \$2.9M higher than what was budgeted for this expense. Because purchased power expenses represent 70-72% of all expenses, this appropriation is necessary to ensure the Enterprise Fund remains under budget for the year.

3. **Second Reading of Ordinance No. 139, 2018, Appropriating Unanticipated Revenue and Prior Year Reserves in the General Fund Related to the Northern Colorado Drug Task Force. (Adopted)**

This Ordinance, unanimously adopted on First Reading on November 20, 2018, appropriates reserves and unanticipated revenue for operation of the Northern Colorado Drug Task Force (NCDTF). Management and fiduciary responsibilities for the NCDTF have been transferred from Fort Collins Police Services to the Larimer County Sheriff's Office. The change in management and fiduciary responsibilities requires appropriation of reserves to be transferred to the Larimer County Sheriff's Office (LCSO) and appropriation of unanticipated revenue from LCSO to Fort Collins Police Services for the operations of the NCDTF.

4. **Second Reading of Ordinance No. 140, 2018, Appropriating Prior Year Reserves in the General Fund to Reimburse Woodward, Inc., for Development Fees and Use Tax. (Adopted)**

This Ordinance, unanimously adopted on First Reading on November 20, 2018, appropriates \$64, 479 of prior year reserves for a rebate to Woodward, Inc., for development fees and use tax under an agreement that City Council approved on April 2, 2013 (Ordinance No. 055, 2013).

5. **Second Reading of Ordinance No. 141, 2018, Amending Sections 3.8.7 and 5.1.2 of the Land Use Code Sign Regulations. (Adopted)**

This Ordinance, unanimously adopted on First Reading on November 20, 2018, updates the Land Use Code (LUC), specifically the sign section, to improve overall legibility, address common requests, implement action items from the adopted Downtown Plan, and provide standards for new technology.

6. **Second Reading of Ordinance No. 142, 2018, Authorizing the Lease of City-Owned Property at 424 Pine Street for Up to 40 Years. (Adopted)**

This Ordinance, unanimously adopted on First Reading on November 20, 2018 obtains authorization from City Council to lease City-owned property to a nonprofit corporation, United Daycare Center dba Teaching Tree Early Childhood Learning Center, at a less-than-market lease rate of \$600 per year for a period of up to 40 years. The initial term is for 20 years, followed by the option for 4 additional 5-year terms at the City's discretion.

7. **First Reading of Ordinance No. 145, 2018, Appropriating Unanticipated Revenue in the Transportation Fund for "Work for Others" Program Expenses. (Adopted)**

The purpose of this item is to appropriate Transportation funds that have been received for work for other City departments and outside entities. The original budgeted amount was based upon current known project scope which has increased over the course of the year. Revenues have been or will be received for work completed; this appropriation of \$750,000 is required to keep the Transportation fund within budget.

8. **First Reading of Ordinance No. 146, 2018, Adopting the 2019 Classified Employee Pay Plan. (Adopted)**

The purpose of this item is to recommend the 2019 City Classified Employee Pay Plan. Classified jobs are grouped according to job functions, a business practice commonly used by both the public and private sectors. Pay ranges are developed by career group (management, professional, administrative, operations and trades) and level for each job function. The result of this work is a City Classified Employee Pay Plan which sets the minimum, midpoint and maximum of pay ranges for the levels within each career group and function. Actual employee pay increases are awarded through a separate administrative process in accordance with the budgeted amount approved by Council.

9. **First Reading of Ordinance No. 147, 2018, Adopting the 2019 Larimer County Regional Transportation Capital Expansion Fee Schedule. (Adopted)**

The purpose of this item is to adopt the 2019 Larimer County Regional Transportation Capital Expansion Fee Schedule (Regional Road Fee) as determined by the Intergovernmental Agreement with Larimer County.

10. **First Reading of Ordinance No. 148, 2018, Approving a Fifty-Year Lease Between the Cities of Loveland and Fort Collins and Discovery Air, LLC for Property Located at the Northern Colorado Regional Airport. (Adopted)**

The purpose of this item is to approve an Airport land lease agreement between the Cities of Fort Collins and Loveland and Discovery Air LLC. Staff from the Airport and the Cities have negotiated a fifty-year lease with Discovery Air, LLC for the development of vacant Airport property. The proposed development will include corporate aircraft hangar facilities and associated office space, a new fixed-base aircraft service operation, and a restaurant. Due to the complexity and unique provisions of the Lease, the Northern Colorado Regional Airport Commission is not authorized to approve and sign the Lease; rather, the two Cities must each approve the Lease in accordance with their respective Municipal Codes and Charters.

11. **First Reading of Ordinance No. 157, 2018, Amending Chapter 3, Articles I, II, and III, and Chapter 12, Article III of the Code of the City of Fort Collins Regulating Alcohol to Align Alcohol Code Statutory References with State Law. (Adopted)**

The purpose of this item is to amend City Code provisions related to alcohol to align with state law.

12. **First Reading of Ordinance No. 158, 2018, Amending Chapter 15, Articles XVI and XVII of the Code of the City of Fort Collins Regulating Marijuana Businesses to Align Marijuana Code Statutory References to State Law. (Adopted)**

The purpose of this item is to amend the City Code provisions related to marijuana businesses to align with state law.

13. **Public Hearing and First Reading of Ordinance No. 159, 2018, Amending Chapter 26 of the Code of the City of Fort Collins to Adopt a New Fort Collins Stormwater Criteria Manual and Making Various Related Changes. (Adopted)**

The purpose of this item is for City Council to adopt the updated Fort Collins Stormwater Criteria Manual (Manual) into City Code, and to make related changes to City Code updating references to the Manual. The Manual sets forth design guidelines and technical criteria that are utilized in the analysis and design of stormwater drainage systems. The Manual serves as the governing criteria for all stormwater improvements, public or private, that are designed and installed within Fort Collins and its Growth Management Area (GMA). In short, the Manual is the primary reference document for engineering consultants when preparing stormwater system designs, and for Fort Collins Utilities staff to confirm stormwater system designs are in compliance with regulations and associated requirements.

The Manual is being updated to replace, in its entirety, the previously adopted "Fort Collins Amendments to the Urban Drainage and Flood Control District Criteria Manual" dated December 2011. The objective is to create a single, stand-alone document that incorporates all key design guidance and more effectively communicates the criteria for Fort Collins and its Growth Management Area (GMA). The Manual is consistent with the recent City-wide development review process updates and will be more user-friendly and easier for users to navigate, interpret and apply. While the criteria presented in the updated Manual are consistent with the currently adopted Manual, there are some proposed technical updates and policy changes included.

14. **Items Relating to Various Amendments to City Code Chapter 26 Pertaining to Utility Services. (Adopted)**

- A. First Reading of Ordinance No. 160, 2018, Adopting the Cross-Connection Control Manual Containing Supplemental Rules and Regulations Necessary to Implement the Cross-Connection Control Program Pursuant to Section 26-189 of the Code of the City of Fort Collins and Amending Said Section to Authorize the Utilities Executive Director to Make Technical Revisions to Such Rules and Regulations.
- B. First Reading of Ordinance No. 161, 2018, Amending Chapter 26 of the Code of The City of Fort Collins to Add Definitions for Data Managed by Utility Services.
- C. First Reading of Ordinance No. 162, 2018, Amending Chapter 26 of the Code of the City of Fort Collins to Reference the Financial Officer's Rules and Regulations for Interest Rates for the On-Bill Financing Program.
- D. First Reading of Ordinance No. 163, 2018, Amending Chapter 26 of the Code of the City of Fort Collins to Clarify Utility Accounts, Billing and Collection Practices Regarding Net Metering.
- E. First Reading of Ordinance No. 164, 2018, Amending Chapter 26 of the Code of the City of Fort Collins to Clarify Access and Metering Conditions of Utility Services Related to Transition from Manually-Read Meters to Advanced Metering Infrastructure (AMI) Meters.
- F. First Reading of Ordinance No. 165, 2018, Amending Sections 26-120 and 26-283 of the Code of the City of Fort Collins to Authorize the Utilities Executive Director to Waive Water Plant Investment Fees and Sewer Plant Investment Fees in Limited Circumstances

The purpose of this item is to adopt a variety of revisions, clarifications and additions to update portions of City Code Chapter 26 pertaining to Utility Services.

15. **Items Relating to Land Dedication and Payment in Lieu Fee Agreements with Thompson and Poudre School Districts. (Adopted)**

- A. First Reading of Ordinance No. 171, 2018, Amending Article III in Chapter 7.5 of the Code of the City of Fort Collins Pertaining to the City's Imposition of Land Dedication Requirements and Fees in Lieu of Land Dedication for Public School Site Acquisition and Development.
- B. Resolution 2018-114 Approving an Amended and Restated Intergovernmental Agreement Between the City and the Poudre School District Pertaining to the Land Dedication and In-Lieu Fee Requirements in Article III of Chapter 7.5 of the Code of the City of Fort Collins.
- C. Resolution 2018-115 Approving an Amended and Restated Intergovernmental Agreement Between the City and the Thompson School District Pertaining to the Land Dedication and In-Lieu Fee Requirements in Article III of Chapter 7.5 of the Code of the City of Fort Collins.

The purpose of this item is to update the Intergovernmental Agreements (IGAs) with Poudre and Thompson School Districts and to amend the Municipal Code to be consistent with the updated IGAs.

16. **Items Relating to Transfer of a Portion of the Platte River Power Authority (Platte River) Fiber Optic Network to the City of Fort Collins and Authorizing a New Franchise for Platte River Fiber. (Adopted)**

- A. Resolution 2018-116 Approving an Intergovernmental Agreement for Fiber Management Between Town of Estes Park, City of Fort Collins, City of Longmont, City of Loveland and Platte River Power Authority.

- B. Public Hearing and First Reading of Ordinance No. 172, 2018, Approving a Franchise and License Agreement between the City of Fort Collins and Platte River Power Authority for a Fiber Optic Network.

The purpose of this item is to consider approval of two agreements necessary to facilitate the transfer of a portion of Platte River's Fiber Optic Network to the City.

17. **Resolution 2018-117 Approving an Art Project for the Streets Park Project and Approving Expenditures from the Art in Public Places Reserve Account in the Cultural Services and Facilities Fund to Commission an Artist to Create the Art Project Pursuant to the Art in Public Places Program. (Adopted)**

The purpose of this item is it to approve expenditures from the Art in Public Places Reserve Account to commission Earthscape to create an artist-designed play structure for the Streets Park Project. The expenditures of \$50,000 will be for design, materials, signage, fabrication, installation, and contingency for Earthscape to create a playground structure developed with the design team and artist Mario Miguel Echevarria.

18. **Resolution 2018-118 Approving an Art Project for the Poudre River Whitewater Park Project and Approving Expenditures From the Art in Public Places Reserve Account in the Cultural Services and Facilities Fund and the Art in Public Places Stormwater Utility Account to Commission an Artist to Create the Art Project Pursuant to the Art in Public Places Program. (Adopted)**

The purpose of this item is it to approve expenditures from the Art in Public Places (APP) Reserve Account and APP Stormwater Utility Account to commission an artist to create art for the Poudre River Whitewater Park Project. The expenditures of \$150,000 will be for design, materials, signage, fabrication, delivery, and contingency for John Davis to create the art for the plaza area.

19. **Resolution 2018-119 Approving the Midtown Business Improvement District 2019 Budget and Operating Plan. (Adopted)**

The purpose of this item is to consider a Resolution approving the Midtown Business Improvement District 2019 Budget and Operating Plan.

20. **Resolution 2018-112 Adopting the City's 2019 Legislative Policy Agenda. (Adopted)**

The purpose of this item is to consider and adopt the City's 2019 Legislative Policy Agenda. Each year the Legislative Review Committee (LRC) develops a legislative agenda to assist in the analysis of pending legislation and regulation. The Legislative Policy Agenda is used as a guide by Council and staff to determine positions on legislation and regulation pending at the state and federal levels and as a general reference for the City's state legislators and congressional delegation.

21. **Resolution 2018-122 Authorizing the City Manager to Submit on the City's Behalf Reply Comments to the Federal Communications Commission in the Matter of Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 1992. (Adopted)**

The purpose of this item is to authorize the City Manager to submit to the Federal Communications Commission (FCC) on the City's behalf reply comments in support of comments recently submitted by the Colorado Communications and Utility Alliance (CCUA) and other parties. The CCUA comments oppose rules proposed in the FCC's Second Further Notice of Proposed Rulemaking regarding cable-related franchise considerations that would limit local governments' ability to negotiate with cable franchises for in-kind services in addition to franchise fees. The City Council's Legislative Policy Agenda supports preserving local governments' ability to negotiate for such services that serve the public interest. Comments will be provided by the December 14 deadline.

- **END CONSENT**

- **CONSENT CALENDAR FOLLOW-UP**

Councilmember Stephens commented on Item No. 5, *Second Reading of Ordinance No. 142, 2018, Authorizing the Lease of City-Owned Property at 424 Pine Street for Up to 40 Years*, and discussed the need for increasing the capacity of affordable child care facilities.

Councilmember Cunniff stated Item No. 13, *Public Hearing and First Reading of Ordinance No. 159, 2018, Amending Chapter 26 of the Code of the City of Fort Collins to Adopt a New Fort Collins Stormwater Criteria Manual and Making Various Related Changes*, will elevate the standards by which people and property are protected from flood damage.

Mayor Troxell commended Item No. 21, *Resolution 2018-119 Approving the Midtown Business Improvement District 2019 Budget and Operating Plan*. Councilmember Martinez agreed with Mayor Troxell and expressed support for the item.

- **STAFF REPORTS**

Tessa Greeger, FC Bikes Program Manager, discussed the vision of the Bicycle Master Plan to provide a community for everyone, regardless of age or ability, where they can safely and comfortably travel by bicycle to where they want to go. The Open Streets events fall into the FC Bikes' activation program area and generally involve temporarily closing an area of streets to motor vehicles and encouraging participants to be active and utilize the public space in ways other than driving a vehicle.

Councilmember Overbeck commended the growth of the Open Streets events. Mayor Pro Tem Horak agreed and commended the well-informed volunteer staff.

Mayor Troxell commended the events and their impact on informing residents of various transportation modalities.

- **COUNCILMEMBER REPORTS**

Councilmember Overbeck reported on the Poudre Heritage Alliance Board retreat during which 2019 events were discussed and the Executive Director was reviewed positively for the year.

Councilmember Cunniff reported on the joint Planning Commission and County Commissioners work session regarding the wasteshed plan, which seems to be moving forward for adoption.

Mayor Pro Tem Horak reported on the North Fort Collins Business Association coats and boots program.

Mayor Troxell reported on the Future of Transit panel at the Lincoln Center.

Councilmember Stephens reported on an event at the Senior Center to sign residents up for the LEAP program and the City's income-qualified rate program.

Councilmember Summers reported on the annual employee recognition event for milestone employees.

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

22. **Items Relating to the Adoption and Amendment of the International Codes Relating to Buildings and Building Regulations. (Postponed to December 18, 2018)**

- A. *Public Hearing and First Reading of Ordinance No. 149, 2018, Amending Chapter 5, Article II, Division 2, of the Code of the City of Fort Collins for the Purpose of Repealing the 2015 International Building Code and Adopting the 2018 International Building Code, with Amendments.*
- B. *Public Hearing and First Reading of Ordinance No. 150, 2018, Amending Chapter 5, Article II, Division 2, of the Code of the City of Fort Collins for the Purpose of Repealing the 2015 Energy Conservation Code and Adopting the 2018 International Energy Conservation Code, with Amendments.*
- C. *Public Hearing and First Reading of Ordinance No. 151, 2018, Amending Chapter 5, Article II, Division 2, of the Code of the City of Fort Collins for the Purpose of Repealing the 2015 International Residential Code and Adopting the 2018 International Residential Code, with Amendments.*
- D. *Public Hearing and First Reading of Ordinance No. 152, 2018, Amending Chapter 5, Article II, Division 2, of the Code of the City of Fort Collins for the Purpose of Adopting the 2018 International Existing Building Code, with Amendments.*
- E. *Public Hearing and First Reading of Ordinance No. 153, 2018, Amending Chapter 5, Article II, Division 2, of the Code of the City of Fort Collins for the Purpose of Adopting the 2018 International Pool and Spa Code, with Amendments.*
- F. *Public Hearing and First Reading of Ordinance No. 154, 2018, Amending Chapter 5, Article II, Division 3, of the Code of the City of Fort Collins for the Purpose of Amending the 2006 International Property Maintenance Code.*
- G. *Public Hearing and First Reading of Ordinance No. 155, 2018, Amending Chapter 5, Article IV, of the Code of the City of Fort Collins for the Purpose of Repealing the 2015 Mechanical Code and Adopting the 2018 International Mechanical Code, with Amendments.*
- H. *Public Hearing and First Reading of Ordinance No. 156, 2018, Amending Chapter 5, Article IV, of the Code of the City of Fort Collins for the Purpose of Repealing the 2015 International Fuel Gas Code and Adopting the 2018 International Fuel Gas Code, with Amendments.*

The purpose of this item is to adopt the most up-to-date, comprehensive, and fully integrated body of codes, the 2018 International Codes (2018 I-Codes), regulating building construction and systems using prescriptive and performance-related provisions. The purpose of these codes is to establish the minimum construction requirements to safeguard the public health, safety and general welfare by regulating structural strength and stability, sanitation, light and ventilation, energy conservation, and property protection from hazards attributed to the built environment within the City of Fort Collins. With factoring in local amendment costs, it is estimated the overall cost increase to build under the 2018 codes is less than 1%.

These amendments will go into effect January 1, 2019.

Because this is the first time the City is adopting the International Existing Building Code (IEBC) and International Pool and Spa Code (IPSC) all language being added to the City Code must be shown as yellow. Language that is being added as local amendment is highlighted in grey so that it is easily distinguishable from already-existing language in the IEBC and IPSC.

City Attorney Daggett read a change to Ordinance No. 151, 2018 relating to the International Residential Code.

Craig Rogers expressed concern with the proposal to reduce the maximum allowable flow for shower heads, citing studies showing the adverse effects of low-flow water systems.

Caroline Johnson expressed concern with the maximum performance test rating requirement for toilets and the proposal to reduce the maximum allowable flow for shower heads.

Cambria McLeod, Plumbing Manufacturers International, expressed concern with the map test rating requirement for toilets.

Kyle Jones expressed concern with the requirement for public lavatory faucets to be EPA Water Sense labeled.

Liesel Hans, Sciences Manager, stated there is availability in the marketplace for products meeting the proposed requirements.

Mayor Pro Tem Horak stated he would like to postpone the item to December 18, 2018 to allow the opportunity for staff to provide additional information.

Councilmember Cunniff discussed the primary goal of water conservation.

Councilmember Martinez asked if staff members have been in touch with Waterpik and other organizations. Russ Hovland, Chief Building Official, replied in the affirmative.

Councilmember Summers supported postponing the item and noted California is the only state to adopt the lower shower head flow criteria and that adoption has resulted in customer dissatisfaction and possible health ramifications.

Councilmember Summers made a motion, seconded by Mayor Pro Tem Horak, to postpone consideration of Item No. 10, *Items Relating to the Adoption and Amendment of the International Codes Relating to Buildings and Building Regulations*, to December 18.

Councilmember Martinez asked about the public outreach process. Hovland replied the item was fully vetted, researched, presented to multiple Boards and Commissions, and was discussed in the Building Code Review Committee.

Councilmember Stephens noted the Review Committee, which included members of the building community, expressed support for the changes.

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| RESULT: | POSTPONED TO DECEMBER 18, 2018 [UNANIMOUS] |
| MOVER: | Ken Summers, District 3 |
| SECONDER: | Gerry Horak, District 6 |
| AYES: | Martinez, Stephens, Summers, Overbeck, Troxell, Cunniff, Horak |

22. Items Relating to 2019 City Impact Fee Updates. (Adopted on First Reading)

- A. First Reading of Ordinance No. 166, 2018, Amending Chapters 7.5, 8 and 24 of the Code of the City of Fort Collins to Implement Phase II Increases of the Capital Expansion Fees.
- B. First Reading of Ordinance No. 167, 2018, Amending Chapter 26 of the Code of the City of Fort Collins To Revise Water Plant Investment Fees.

- C. First Reading of Ordinance No. 168, 2018, Amending Chapter 26 of the Code of the City of Fort Collins To Revise Sewer Plant Investment Fees.
- D. First Reading of Ordinance No. 169, 2018, Amending Chapter 26 of the Code of the City of Fort Collins To Revise Stormwater Plant Investment Fees.

The purpose of this item is to update impact fees for the 2019 cadence which includes Step II for all six Capital Expansion Fees (CEFs) and Utility Plant Investment Fees (PIFs). Staff has worked to coordinate the process for updating all new development related fees that require Council approval since 2016. The 2017 Capital Expansion Fee (CEF) and Transportation Capital Expansion Fee (TCEF) full fee proposals showed significant increases from the previously approved fees. Council asked for these fees to be implemented in three steps.

In addition to the stepped implementation for CEFs, Council asked for a Fee Working Group to be created to foster a better understanding of impact fees prior to discussing further fee updates. The Fee Working Group meetings started in August 2017, comprised of a balanced group of stakeholders - citizens, business-oriented individuals, City staff and a Council liaison. Overall, the Fee Working Group supports the fee coordination process and proposed fee updates.

Councilmember Martinez stated he pulled the item to provide additional public disclosure and requested clarification related to some of the data. Mike Beckstead, Chief Financial Officer, replied there was an error in a chart that was published; however, that did not impact the fee recommendations. He discussed the data used for fee comparison purposes and noted the fees in areas of the city served by Elco and the Fort Collins/Loveland Water District are much higher due to fees out of the City's control.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to adopt Ordinance No. 166, 2018, on First Reading.

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| RESULT: | ORDINANCE NO. 166, 2018, ADOPTED ON FIRST READING [UNANIMOUS] |
| MOVER: | Gerry Horak, District 6 |
| SECONDER: | Ross Cunniff, District 5 |
| AYES: | Martinez, Stephens, Summers, Overbeck, Troxell, Cunniff, Horak |

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to adopt Ordinance No. 167, 2018, on First Reading.

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| RESULT: | ORDINANCE NO. 167, 2018, ADOPTED ON FIRST READING [UNANIMOUS] |
| MOVER: | Gerry Horak, District 6 |
| SECONDER: | Ross Cunniff, District 5 |
| AYES: | Martinez, Stephens, Summers, Overbeck, Troxell, Cunniff, Horak |

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to adopt Ordinance No. 168, 2018, on First Reading.

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| RESULT: | ORDINANCE NO. 168, 2018, ADOPTED ON FIRST READING [UNANIMOUS] |
| MOVER: | Gerry Horak, District 6 |
| SECONDER: | Ross Cunniff, District 5 |
| AYES: | Martinez, Stephens, Summers, Overbeck, Troxell, Cunniff, Horak |

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to adopt Ordinance No. 169, 2018, on First Reading.

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| RESULT: | ORDINANCE NO. 169, 2018, ADOPTED ON FIRST READING [UNANIMOUS] |
| MOVER: | Gerry Horak, District 6 |
| SECONDER: | Ross Cunniff, District 5 |
| AYES: | Martinez, Stephens, Summers, Overbeck, Troxell, Cunniff, Horak |

23. **Items Relating to the Jefferson Street Improvements Project. (Adopted)**

A. *Resolution 2018-113 Authorizing the Mayor to Sign an Intergovernmental Agreement with the Colorado Department of Transportation for the Jefferson Street Improvements Project*

B. *First Reading of Ordinance No. 170, 2018, Authorizing the Acquisition by Eminent Domain Proceedings of Certain Lands Necessary to Construct Public Improvements in Connection with the Jefferson Street Improvements Project*

The purpose of this item is to authorize the Mayor to sign an Intergovernmental Agreement (IGA) with the Colorado Department of Transportation (CDOT). This action will formalize a new agreement between the City and CDOT, enabling the project's property acquisition phase as well as allocating \$526,100 of previously awarded Congestion Mitigation and Air Quality (CMAQ) funds into the phase. This action does not include new appropriations as the CMAQ and local matching funds have been previously appropriated.

This item also seeks authorization from City Council to use eminent domain, if deemed necessary, to acquire property interests along Jefferson Street. The acquisitions will include purchase of rights-of-way and permanent easements from five property owners. To meet funding constraints, timely acquisition of the property interests is necessary. Staff fully intends to negotiate in good faith with the affected owners and is requesting authorization of eminent domain only if such action is deemed necessary.

Councilmember Martinez requested additional information regarding the eminent domain aspect of the item.

Tom Konstanty, Fort Collins Rescue Mission Director, stated he needs to address some concerns that will impact the small lot on which the Rescue Mission sits. He has had conversations about a possible alternative.

Kerri Allison, Real Estate Specialist, stated there are five parcels the City would like to acquire as part of the Jefferson Street improvements. She noted this is a federal project and in order to meet funding constraints, staff is requesting authorization for eminent domain if necessary on all five parcels.

City Manager Atteberry noted this is a standard procedure of the City and does not automatically mean the action will occur.

Kyle Lambrecht, Civil Engineer III, discussed the project limits and outlined the five parcels in question, which include Rodizio Grill, a portion of the Rescue Mission property, and three other parcels. Specifically, the project involves 7.5 feet along each frontage.

Deputy City Manager Mihelich stated the existing sidewalks being maintained by the City are on private property. This acquisition would transfer ownership of those sidewalks to the City and no actual buildings would be affected.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to adopt Resolution 2018-113.

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| RESULT: | RESOLUTION 2018-113 ADOPTED [UNANIMOUS] |
| MOVER: | Gerry Horak, District 6 |
| SECONDER: | Ross Cunniff, District 5 |
| AYES: | Martinez, Stephens, Summers, Overbeck, Troxell, Cunniff, Horak |

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to adopt Ordinance No. 170, 2018, on First Reading.

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| RESULT: | ORDINANCE NO. 170, 2018, ADOPTED [UNANIMOUS] |
| MOVER: | Gerry Horak, District 6 |
| SECONDER: | Ross Cunniff, District 5 |
| AYES: | Martinez, Stephens, Summers, Overbeck, Troxell, Cunniff, Horak |

24. **Resolution 2018-120 Appointing a Councilmember to the Larimer County Behavioral Health Policy Council. (Adopted)**

The purpose of this item is to make a Councilmember liaison assignment to the Larimer County Behavioral Health Policy Council. The Mayor has proposed that Kristin Stephens be appointed to this role, and she has agreed to serve as the liaison to this Policy Council if appointed.

Councilmember Martinez commended the appointment of Councilmember Stephens as the liaison to the Behavioral Health Policy Council.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to adopt Resolution 2018-120, appointing Councilmember Stephens to the liaison role.

Councilmember Stephens accepted the position.

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| RESULT: | RESOLUTION 2018-120 ADOPTED [UNANIMOUS] |
| MOVER: | Gerry Horak, District 6 |
| SECONDER: | Ross Cunniff, District 5 |
| AYES: | Martinez, Stephens, Summers, Overbeck, Troxell, Cunniff, Horak |

● **DISCUSSION ITEMS**

25. **Second Reading of Ordinance No. 144, 2018 Amending Chapter 12 of the Code of the City of Fort Collins to Establish the Requirements for a Building Energy and Water Scoring Program. (Adopted as Amended on Second Reading)**

This Ordinance, adopted on First Reading on November 20, 2018 by a vote of 6-1 (Nays: Summers), establishes requirements for building owners to provide information related to energy and water use in commercial and multifamily buildings larger than 5,000 square feet.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to adopt Ordinance No. 144, 2018, on Second Reading.

Councilmember Summers stated it is important to understand the impacts in terms of return on investment related to energy savings efforts. He stated this ordinance is not comparable to manufacturer mandates and is a rush to a legislative, regulatory approach that is short-sighted. He suggested this item is about a Climate Action Plan agenda and has little benefit to the commercial

real estate market or the general public and could drive up costs of entry-level housing. He read several comments of business owners expressing concern about the program.

Councilmember Summers asked what is considered a commercial building. Kirk Longstein, Energy Service Project Manager, replied the Energy Star portfolio manager tool includes property use definitions, the most common of which in Fort Collins are office, mixed-use, and retail. Hospitals and churches are included in the definition; however, automotive shops would be reviewed on a case-by-case basis.

Councilmember Summers asked if staff examined a voluntary program at full implementation. Longstein replied a pilot of a voluntary program was run for one year and several of the participants provided testimonials on the benefits of the program and provided feedback on how to reduce the time commitment on their end. All Poudre School District schools, all City buildings, and all CSU buildings are using the Portfolio Manager tool.

Councilmember Summers made a motion to postpone consideration of Ordinance No. 144, 2018 indefinitely. The motion did not receive a second and therefore failed.

Councilmember Martinez asked if any incentives were offered for voluntary participation. Longstein replied a free certification, valued at \$1,500, was offered as an incentive; however, that certification is voluntary and its value to the business depends on the market.

Deputy City Manager Mihelich stated there is an inherent incentive to going through the program as the Energy Star rating does have some prominence and buyers want to purchase those buildings.

Councilmember Summers made a motion to amend the language of Ordinance No. 144, 2018, to make reported information from businesses publicly available on request consistent with applicable law.

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

City Attorney Daggett summarized her understanding of Councilmember Summers' suggested language changes.

Councilmember Summers made a motion to amend the language of Ordinance No. 144, 2018, to make reported information from businesses publicly available on request consistent with applicable law. The motion did not receive a second and therefore failed.

Councilmember Summers made a motion, seconded by Councilmember Cunniff, to amend the language of Ordinance No. 144, 2018, to include City-owned covered buildings with a gross floor area equal to or greater than 20,000 square feet.

Mayor Pro Tem Horak asked why the language was originally written to exclude such buildings. Smith replied that was a mistake in the language and it was to be written to include such buildings. Councilmembers Summers and Cunniff accepted the change as being a friendly amendment.

Councilmember Summers made a motion, seconded by Councilmember Martinez, to delete the phrase "consistent with City open data policies as adopted in Resolution 2017-014" from Ordinance No. 144, 2018, stating that change would make the information available upon request but does not make the Energy Star information publicly available.

Councilmember Martinez stated he would like the information to be publicly available without citizens having to request it.

Councilmember Summers stated the information could be attained; however, many businesses think the information should be private.

Councilmember Cunniff stated the information is provided in order to make the market function and provides transparency for buyers.

Councilmember Summers stated government does not make the market work and it is impossible to know all of the factors that impact the Energy Star score on a building by building basis.

Councilmember Cunniff stated the availability of the data will inform buyers as to the impact of their buying habits on the City's overall goals.

The vote on the motion to amend was as follows: Yeas: Summers. Nays: Troxell, Overbeck, Stephens, Martinez, Cunniff, and Horak.

THE MOTION FAILED.

Councilmember Summers made a motion, seconded by Councilmember Martinez, to include language in Ordinance No. 144, 2018, prohibiting the City from requiring Energy Star score mandates on buildings.

Councilmember Martinez asked if staff is planning to require Energy Star scores. Longstein replied this program does not require certain levels of performance, only information. There are no plans at this time to mandate certain levels of performance.

Mayor Troxell noted any future mandate would need Council approval at that time. Longstein replied in the affirmative.

Councilmember Cunniff stated he would support the language change if City-owned buildings were not included.

Mayor Pro Tem Horak and Councilmember Cunniff accepted the proposed amendment as being friendly.

Councilmember Summers made a motion to include language relating to evaluation and a sunset by December 31, 2030 unless Council opts to continue or modify the program.

Mayor Pro Tem Horak supported evaluation language but opposed the inclusion of a sunset provision.

Councilmember Summers stated he would accept that.

Mayor Pro Tem Horak suggested including the requirement for an annual report by staff evaluating the program's outputs and outcomes. Mayor Pro Tem Horak and Councilmember Cunniff accepted the language amendment as being friendly.

City Attorney Daggett discussed the three accepted amendments and read the amended language.

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| RESULT: | ORDINANCE NO. 144, 2018, ADOPTED AS AMENDED ON SECOND READING [6 TO 1] |
| MOVER: | Gerry Horak, District 6 |
| SECONDER: | Ross Cunniff, District 5 |
| AYES: | Martinez, Stephens, Overbeck, Troxell, Cunniff, Horak |
| NAYS: | Summers |

26. **Resolution 2018-121 Making Findings of Fact and Conclusions of Law Regarding the Appeal of the Zoning Board of Appeal's Approving a Variance, with One Condition, for 216 North College Avenue. (Adopted)**

The purpose of this item is to make Findings of Fact and Conclusions regarding the appeal of the Zoning Board of Appeals granting a variance with condition for the property located at 216 North College Avenue. City Council heard the appeal on November 27, 2018 and voted to uphold the Zoning Board of Appeals decision by a vote of 4-1. (Nays: Martinez; Overbeck, Summers absent)

Mayor Pro Tem Horak made a motion, seconded by Councilmember Martinez, to adopt Resolution 2018-121.

Mayor Pro Tem Horak requested staff input as to whether Councilmembers who were not present at the hearing should vote. City Attorney Daggett replied it is acceptable for all Councilmembers to vote.

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| RESULT: | RESOLUTION 2018-121 ADOPTED [UNANIMOUS] |
| MOVER: | Gerry Horak, District 6 |
| SECONDER: | Ray Martinez, District 2 |
| AYES: | Martinez, Stephens, Summers, Overbeck, Troxell, Cunniff, Horak |

● **OTHER BUSINESS**

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to move the regular Council meeting scheduled for Tuesday, January 1, 2019, to Wednesday, January 2, 2019, pursuant to City Code Section 2-28A because January 1st is a national holiday.

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

- **ADJOURNMENT**

The meeting adjourned at 8:48 PM.

Mayor

ATTEST:

City Clerk

December 18, 2018

COUNCIL OF THE CITY OF FORT COLLINS, COLORADO

Council-Manager Form of Government

Regular Meeting – 6:00 PM

● **ROLL CALL**

PRESENT: Martinez, Stephens, Summers, Overbeck, Troxell, Cunniff, Horak
Staff Present: Atteberry, Daggett, Coldiron

● **AGENDA REVIEW: CITY MANAGER**

City Manager Atteberry stated there were no changes to the published agenda.

● **PUBLIC COMMENT**

Fred Kirsch, District 6 Council candidate, expressed appreciation for the work of Council and staff and discussed the Community for Sustainable Energy group he founded.

Eric Sutherland discussed Item No. 16, *Items Amending the Service Plans for the I-25/Prospect Interchange Metropolitan District and the Gateway at Prospect Metropolitan District Nos. 1-7*, stating the I-25/Prospect Interchange Metro District's main function is to repay the City \$8 million it is going to front for the redevelopment of the interchange. He opposed the loaning of City funds with the expectation of payment being returned.

Jeff Johnson, Affordable Housing Board, discussed the Board's view on the ongoing City Plan update process. He stated the Board strongly supports the recommendation to increase housing opportunities in existing neighborhoods to help meet the City's overall housing needs.

Rich Stave thanked the City for funds, which were matched by his HOA, to do a road resurfacing project in his neighborhood.

Thomas Edwards discussed the City's failed social issues and expressed concern regarding the Riverside bridge project.

● **PUBLIC COMMENT FOLLOW-UP**

Mayor Troxell summarized the citizen comments.

Councilmember Martinez requested staff input regarding the Riverside bridge and Horsetooth and College projects. City Manager Atteberry replied there are some contractor issues with the Riverside project and there were some unanticipated delays in the lane closures for the Horsetooth and College project. Deputy City Manager Mihelich replied the overall project at Horsetooth and College was opened on time; however, there were certain other delayed elements.

● **CONSENT CALENDAR**

Councilmember Martinez withdrew Item No. 14, *Resolution 2018-123 Authorizing the Amendment and Extension of an Intergovernmental Agreement with Larimer County for Jail Services*, from the Consent Agenda.

Councilmember Cunniff withdrew Item No. 15, *Resolution 2018-124 Approving a Partial Waiver of LEED Certification Requirements for the Police Regional Training Campus*, from the Consent Agenda.

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

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

1. **Consideration and Approval of the Minutes From the November 6 and November 20, 2018 Regular Council Meetings. (Adopted)**

The purpose of this item is to approve the minutes from the November 6 and November 20, 2018 Regular Council meetings.

2. **Second Reading of Ordinance No. 145, 2018, Appropriating Unanticipated Revenue in the Transportation Fund for “Work for Others” Program Expenses. (Adopted)**

This Ordinance, unanimously adopted on First Reading on December 4, 2018, appropriates Transportation funds that have been received for work for other City departments and outside entities.

3. **Second Reading of Ordinance No. 146, 2018, Adopting the 2019 Classified Employee Pay Plan. (Adopted)**

This Ordinance, unanimously adopted on First Reading on December 4, 2018, recommends the 2019 City Classified Employee Pay Plan.

4. **Second Reading of Ordinance No. 147, 2018, Adopting the 2019 Larimer County Regional Transportation Capital Expansion Fee Schedule. (Adopted)**

This Ordinance, unanimously adopted on First Reading on December 4, 2018, adopts the 2019 Larimer County Regional Transportation Capital Expansion Fee Schedule (Regional Road Fee) as determined by the Intergovernmental Agreement with Larimer County.

5. **Second Reading of Ordinance No. 148, 2018, Approving a Fifty-Year Lease Between the Cities of Loveland and Fort Collins and Discovery Air, LLC for Property Located at the Northern Colorado Regional Airport. (Adopted)**

This Ordinance, unanimously adopted on First Reading on December 4, 2018, approves an Airport land lease agreement between the Cities of Fort Collins and Loveland and Discovery Air, LLC. Staff from the Airport and the Cities have negotiated a fifty-year lease with Discovery Air, LLC for the development of vacant Airport property. The proposed development will include corporate aircraft hangar facilities and associated office space, a new fixed-base aircraft service operation, and a restaurant. Due to the complexity and unique provisions of the Lease, the Northern Colorado Regional Airport Commission is not authorized to approve and sign the Lease, rather, the two Cities must each approve the Lease in accordance with their respective Municipal Codes and Charters.

6. **Second Reading of Ordinance No. 157, 2018, Amending Chapter 3, Articles I, II, and III, and Chapter 12, Article III of the Code of the City of Fort Collins Regulating Alcohol to Align Alcohol Code Statutory References with State Law. (Adopted)**

This Ordinance, unanimously adopted on First Reading on December 4, 2018, amends City Code provisions related to alcohol to align with state law.

7. **Second Reading of Ordinance No. 158, 2018, Amending Chapter 15, Articles XVI and XVII of the Code of the City of Fort Collins Regulating Marijuana Businesses to Align Marijuana Code Statutory References to State Law. (Adopted)**

This Ordinance, unanimously adopted on First Reading on December 4, 2018 amend the City Code provisions related to marijuana businesses to align with state law.

8. **Second Reading of Ordinance No. 159, 2018, Amending Chapter 26 of the Code of the City of Fort Collins to Adopt a New Fort Collins Stormwater Criteria Manual and Making Various Related Changes. (Adopted)**

This Ordinance, unanimously adopted on First Reading on December 4, 2018 adopts the updated Fort Collins Stormwater Criteria Manual into City Code, and makes related changes to City Code updating references to the Manual.

9. **Items Relating to Various Amendments to City Code Chapter 26 Pertaining to Utility Services. (Adopted)**

- A. Second Reading of Ordinance No. 160, 2018, Adopting the Cross-Connection Control Manual Containing Supplemental Rules and Regulations Necessary to Implement the Cross-Connection Control Program Pursuant to Section 26-189 of the Code of the City of Fort Collins and Amending Said Section to Authorize the Utilities Executive Director to Make Technical Revisions to Such Rules and Regulations.
- B. Second Reading of Ordinance No. 161, 2018, Amending Chapter 26 of the Code of The City of Fort Collins to Add Definitions for Data Managed by Utility Services.
- C. Second Reading of Ordinance No. 162, 2018, Amending Chapter 26 of the Code of the City of Fort Collins to Reference the Financial Officer's Rules and Regulations for Interest Rates for the On-Bill Financing Program.
- D. Second Reading of Ordinance No. 163, 2018, Amending Chapter 26 of the Code of the City of Fort Collins to Clarify Utility Accounts, Billing and Collection Practices Regarding Net Metering.
- E. Second Reading of Ordinance No. 164, 2018, Amending Chapter 26 of the Code of the City of Fort Collins to Clarify Access and Metering Conditions of Utility Services Related to Transition from Manually-Read Meters to Advanced Metering Infrastructure (AMI) Meters.
- F. Second Reading of Ordinance No. 165, 2018, Amending Sections 26-120 and 26-283 of the Code of the City of Fort Collins to Authorize the Utilities Executive Director to Waive Water Plant Investment Fees and Sewer Plant Investment Fees in Limited Circumstances

This Ordinance, unanimously adopted on First Reading on December 4, 2018, adopts a variety of revisions, clarifications and additions to update portions of City Code Chapter 26 pertaining to Utility Services.

10. **Items Relating to 2019 City Impact Fee Updates. (Adopted)**

- A. Second Reading of Ordinance No. 166, 2018, Amending Chapters 7.5, 8 and 24 of the Code of the City of Fort Collins to Implement Phase II Increases of the Capital Expansion Fees.

- B. Second Reading of Ordinance No. 167, 2018, Amending Chapter 26 of the Code of the City of Fort Collins To Revise Water Plant Investment Fees.
- C. Second Reading of Ordinance No. 168, 2018, Amending Chapter 26 of the Code of the City of Fort Collins To Revise Sewer Plant Investment Fees.
- D. Second Reading of Ordinance No. 169, 2018, Amending Chapter 26 of the Code of the City of Fort Collins To Revise Stormwater Plant Investment Fees.

These Ordinances, unanimously adopted on First Reading on December 4, 2018 update impact fees for the 2019 cadence which includes Step II for all six Capital Expansion Fees (CEFs) and Utility Plant Investment Fees (PIFs). Staff has worked to coordinate the process for updating all new development related fees that require Council approval since 2016. The 2017 Capital Expansion Fee (CEF) and Transportation Capital Expansion Fee (TCEF) full fee proposals showed significant increases from the previously approved fees. Council asked for these fees to be implemented in three steps.

In addition to the stepped implementation for CEFs, Council asked for a Fee Working Group to be created to foster a better understanding of impact fees prior to discussing further fee updates. The Fee Working Group meetings started in August 2017, comprised of a balanced group of stakeholders - citizens, business-oriented individuals, City staff and a Council liaison. Overall, the Fee Working Group supports the fee coordination process and proposed fee updates.

11. **Second Reading of Ordinance 170, 2018 Authorizing the Acquisition by Eminent Domain Proceedings of Certain Lands Necessary to Construct Public Improvements in Connection with the Jefferson Street Improvements Project. (Adopted)**

This Ordinance, unanimously adopted on First Reading on December 4, 2018 seeks authorization from City Council to use eminent domain, if deemed necessary, to acquire property interests along Jefferson Street as part of the Jefferson Street Improvements Project. The acquisitions will include purchase of rights-of-way and permanent easements from five property owners. To meet funding constraints, timely acquisition of the property interests is necessary. Staff fully intends to negotiate in good faith with the affected owners and is requesting authorization of eminent domain only if such action is deemed necessary.

12. **Second Reading of Ordinance No. 171, 2018, Amending Article III in Chapter 7.5 of the Code of the City of Fort Collins Pertaining to the City's Imposition of Land Dedication Requirements and Fees in Lieu of Land Dedication for Public School Site Acquisition and Development. (Adopted)**

This Ordinance, unanimously adopted on First Reading on December 4, 2018 amends the City Code to be consistent with the Intergovernmental Agreements with Poudre and Thompson School Districts.

13. **Second Reading of Ordinance No. 172, 2018, Approving a Franchise and License Agreement between the City of Fort Collins and Platte River Power Authority for a Fiber Optic Network. (Adopted)**

This Ordinance, unanimously adopted on First Reading on December 4, 2018, approves a franchise and license agreement between the City of Fort Collins and Platte River Power Authority for a fiber optic network.

14. **Items Amending the Service Plans for the I-25/Prospect Interchange Metropolitan District and the Gateway at Prospect Metropolitan District Nos. 1-7. (Adopted)**

- A. Resolution 2018-125 Approving the Corrected District Boundary Legal Description, District Boundary Map and Vicinity Map of the I-25/ Prospect Interchange Metropolitan District and Approving Corresponding Amendments to the District Service Plan.

- B. Resolution 2018-126 Approving the Corrected District Boundary Legal Descriptions of Gateway at Prospect Metropolitan District Nos. 1-7 and Approving Corresponding Amendments to the District Service Plan.

The purpose of this item is to modify the service plans for the I-25/Prospect Interchange Metropolitan District and the Gateway at Prospect Metropolitan District Nos. 1-7. These proposed modifications correct the legal descriptions of the boundaries of the districts to exclude certain properties from their boundaries that were included in the boundaries due to a surveyor's error.

15. **Resolution 2018-127 Adopting the 2018 Update to the Three-Mile Plan for the City of Fort Collins. (Adopted)**

The purpose of this item is to adopt the 2018 update to the Three-Mile Plan for the City of Fort Collins. This Plan is a policy document for the coordination and provision of services for potential annexations, and describes the general location, character, utilities, and infrastructure for areas within three miles of the municipal boundary. Annual updates to the Three-Mile Plan are required by state statute.

16. **Resolution 2018-128 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. Applications were solicited during September, October, and November. Council teams interviewed applicants during November and December. 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.

17. **Resolution 2018-129 Establishing a Process for City Council Selection and Appointment of a District 1 Councilmember to Fill a Vacancy Due to the Resignation of Councilmember Bob Overbeck. (Adopted)**

The purpose of this item is to establish the process to be used in filling a vacancy in the District 1 Council seat. Councilmember Bob Overbeck has tendered his resignation from the Council effective January 1, 2019, as a result of his recent election to the office of Larimer County Assessor.

- END CONSENT

- STAFF REPORTS

Residential Sprinkler Audit Program

Liesel Hans, Water Conservation Manager, discussed the Residential Sprinkler Audit Program noting it has been in place for 20 years and is a free program for residents. About 7 million gallons of water have been saved this year alone and the program is quite popular with customers. Hans detailed the City goals achieved with the program and discussed an example of the program's effect on a single customer.

Councilmember Stephens asked how early customers need to put themselves on the wait list for a summer audit. Hans replied customers can join the wait list at any time and those on the wait list will be the first to be notified when scheduling becomes available.

Councilmember Cunniff commended staff on their work.

Councilmember Overbeck commended the work and asked about the City's xeriscape program. Hans replied the City has an incentive-based xeriscape program which provides rebates for transitioning landscaping from high water use to low water use.

Mayor Pro Tem Horak asked why 2016 data showed lower customer satisfaction. Hans replied staff transitioned to an in-house software system that summer which resulted in some delays. Additionally, some more focused work was being done that summer.

Mayor Troxell thanked Hans and her staff for their work and commended process improvements and collaborative work.

Coalition for the Poudre Watershed Update

Jill Oropeza, Water Quality Services Manager, discussed the partnership between the City's utilities and the Coalition for the Poudre River Water Shed (CPRW). The partnership helps support many of the objectives the City's utilities department has around source water protection by leveraging resources and implementing projects aimed at reducing wildfire risks within the City's water sheds.

Jen Kovacs, Coalition for the Poudre River Water Shed Executive Director, stated CPRW's mission is to improve and maintain the ecological health of the Poudre River Water Shed through community collaboration. She detailed some of the post-fire restoration work projects for the High Park and Hewlett Gulch fires which aim to abate the potential for excessive sediment entering the Poudre River. Future projects include a citizen science water quality monitoring program and an expansion to the river health assessment program.

Mayor Troxell asked about the partnering agencies. Kovacs replied the core group includes CSU researchers, Rocky Mountain Research Station, the U.S. Forest Service, Colorado State Forest Service, Natural Resource Conservation Service, Nature Conservancy, Larimer County Conservation Corps, wildlands restoration volunteers, the City of Greeley, and Larimer County.

Councilmember Stephens commended the work and suggested a tour be arranged for Council.

Councilmember Overbeck commended the work.

● COUNCILMEMBER REPORTS

Councilmember Stephens announced community resources for individuals who may be struggling with the upcoming holiday season.

Councilmember Martinez reported on the Fossil Creek Trail ribbon cutting event.

Mayor Pro Tem Horak reported on the Platte River Power Authority Board unanimously voting in favor of the 100% renewable energy policy by 2030 resolution. He also reported on the \$20 million grant received by the North Front Range Metropolitan Planning Organization for I-25 improvements.

Mayor Pro Tem Horak reported on the open house dealing with the Magnolia and Shields bikeway and a meeting with concerned residents from the Hickory mobile home park relating to making

left-hand turns onto Hickory from College. He noted the vegetation will be cut down and stated a left-turn signal will be added if that change is not sufficient.

Councilmember Overbeck reported on a visit to Dunn Elementary School and the anti-harassment committee's report on having a respectful workplace. He also reported on the Poudre Heritage Alliance's collaboration with Fort Collins, Larimer County and the Poudre Fire Authority as well as the death of Mark Soldierwolf who was instrumental in leading the recognition of the Council Tree site.

Mayor Troxell reported on the TubaChristmas event in Old Town, a visit to McGraw Elementary School, and the 50-year anniversary event for the Downtown Club of Fort Collins, formerly the Sertoma Club. He recognized Councilmember Martinez as well as former Mayors and Councilmembers for their membership in the community service organization.

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

18. **Resolution 2018-123 Authorizing the Amendment and Extension of an Intergovernmental Agreement with Larimer County for Jail Services. (Adopted)**

The purpose of this item is to authorize the City Manager to enter into an amended intergovernmental agreement (IGA) with Larimer County relating to the City's use of the Larimer County Jail for municipal defendants. The current IGA, entered into in 2017, is effective through the end of 2018 and reserves 3 beds at the jail for use by Fort Collins Municipal Court defendants. The City and Larimer County wish to extend this IGA for 2019-2020.

Councilmember Martinez requested staff explain the reasoning behind this item.

Ingrid Decker, City Attorney's Office, stated this item extends an existing IGA between the City and Larimer County for three reserved beds at the Larimer County jail for municipal defendants. It has aided in giving meaningful sentences to repeat offenders. Decker noted the funds for this were part of the 2019-2020 approved budget.

Councilmember Stephens asked if individuals are placed in these beds if they cannot pay fines or fees. Decker replied in the negative and stated there are alternatives for individuals who cannot afford to pay fines.

Patty Netherton, Municipal Court Administrator, discussed the transitional services program.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Martinez, to adopt Resolution 2018-123.

Councilmember Stephens stated it is important to include information as to programs available to help individuals along with the jail information.

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| RESULT: | RESOLUTION 2018-123 ADOPTED [UNANIMOUS] |
| MOVER: | Gerry Horak, District 6 |
| SECONDER: | Ray Martinez, District 2 |
| AYES: | Martinez, Stephens, Summers, Overbeck, Troxell, Cunniff, Horak |

19. **Resolution 2018-124 Approving a Partial Waiver of LEED Certification Requirements for the Police Regional Training Campus. (Postponed to February 5, 2019)**

The purpose of this item is to request City Council approve a partial waiver of LEED certification requirements for the new Police Regional Training Campus (Training Campus). In 2006, City Council adopted a resolution that requires all new construction projects of 5,000 square feet or more to achieve LEED Gold certification, except under limited circumstances. The City of Loveland, which is an equal partner in the Training Campus, does not have any specific LEED requirements for construction projects. City staff is requesting the partial waiver to reduce the costs of the project and in recognition that Loveland does not require LEED compliance for its new construction.

Councilmember Cunniff requested staff input as to how energy and air quality goals will be evaluated and asked about the timeline and process.

Fred Kirsch opposed the item and stated it is worth exploring alternative ways to achieve gold LEED certification for the Police Regional Training Campus.

Councilmember Cunniff asked about the deadline for the determination. Brian Hergott, Operations Services Project Manager, replied the schematic design phase of the project is currently being completed and determining the desired level of LEED certification needs to occur as soon as possible.

Councilmember Cunniff asked if there would be any difficulties in postponing consideration of this item to January 15. Hergott replied it would not affect the bond or funding but may delay the sequence of construction.

Councilmember Cunniff stated he has received concerned comments from members of the Energy Board and expressed concern that the Energy Board and the Air Quality Advisory Board were not asked to provide input.

City Manager Atteberry stated there may be a cost impact to the project depending upon which LEED goal Council would like to meet.

Mayor Troxell requested additional information as to which structures will be LEED certified. Hergott replied the office, classroom, and administration building will be LEED gold certified; the waiver would apply to the shooting range only.

City Manager Atteberry stated the decision needs to be made by early to mid-February; therefore, a postponement should not affect the financing.

Councilmember Summers asked about the cost per square foot to gold certify the shooting range. Tracy Oschner, Senior Operations Services Manager, replied there are challenges in certifying the campus; however, the goal is to make the shooting range as efficient as possible.

City Manager Atteberry noted Loveland, a 50% partner, does not have the same standard for buildings and this facility is within its jurisdiction. He also noted boards and commissions are not consulted on municipal building projects.

Mayor Troxell stated the certification of the administration building is a step in the right direction.

Councilmember Cunniff made a motion, seconded by Councilmember Overbeck, to postpone Resolution 2018-124 to January 15, 2019, to allow the Energy Board an opportunity to make a recommendation on a prioritized list of energy efficiency and improvement options.

Councilmember Overbeck stated this would be a good learning opportunity for the Board and noted Council appreciates its feedback.

Mayor Troxell questioned whether the Boardmembers have the expertise to comment on building standards from a LEED perspective and stated specialized structures, such as this, are much more difficult to certify.

City Manager Atteberry noted the design and operations have been a negotiation with another partner and, while it is likely the Energy Board will have significant agreement with the City, it is unlikely its input will have much effect on the negotiation.

Councilmember Martinez questioned the goal of postponement. Councilmember Cunniff replied the Energy Board meets January 10 and members have presented several specific questions and considerations and can provide some technical prioritization advice to Council.

Councilmember Stephens stated she is willing to wait in order to receive additional information. She suggested the Boardmembers' emails be forwarded to staff for examination of the issues.

Councilmember Summers expressed concern about the postponement from a process standpoint. He questioned whether Energy Board members have expertise in LEED certification for shooting ranges and stated Loveland is willing to build to whatever standard Fort Collins would like if Fort Collins is willing to fund the changes.

Mayor Pro Tem Horak suggested postponement to February 5 to avoid placing a discussion item on the January 15 agenda during which a new Councilmember will be appointed. He suggested the Finance Committee also look at the item following the Energy Board's recommendations.

Councilmember Martinez asked how many other shooting ranges in the country are LEED certified. City Manager Atteberry replied there is one.

Councilmember Cunniff accepted the February 5 date as a friendly amendment to his motion and noted he is more interested in energy savings than the actual LEED certification plaque.

Councilmember Overbeck accepted the February 5 date as a friendly amendment.

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| RESULT: | RESOLUTION 2018-124 POSTPONED TO FEBRUARY 5, 2019 [6 TO 1] |
| MOVER: | Ross Cunniff, District |
| SECONDER: | Bob Overbeck, District 1 |
| AYES: | Martinez, Stephens, Overbeck, Troxell, Cunniff, Horak |
| NAYS: | Summers |

● **DISCUSSION ITEMS**

20. **Resolution 2018-130 Expressing Gratitude and Appreciation to Bob Overbeck for his Contributions to the Community as a Councilmember**

Mayor Troxell read the Resolution expressing appreciation to Councilmember Overbeck for his service and tenure as a Councilmember.

Councilmember Cunniff made a motion, seconded by Councilmember Stephens, to suspend the rules of proceeding to allow consideration of this item prior to Councilmember pulled consent items. Yeas: Troxell, Stephens, Martinez, Horak, Cunniff, Overbeck, and Summers. Nays: none.

THE MOTION CARRIED.

Jerry Gavaldon congratulated Councilmember Overbeck on his new position as County Assessor and complimented his work as a Councilmember.

Councilmember Cunniff commended Councilmember Overbeck on his community service and desire to ensure his constituents are heard.

Councilmember Stephens commended Councilmember Overbeck on engaging with his constituents and thanked him for his service on Council.

Councilmember Summers commended Councilmember Overbeck on his service and congratulated him on his new position as County Assessor.

Mayor Pro Tem Horak congratulated Councilmember Overbeck on his new position and commended his focus on equity and his constituents.

Councilmember Martinez congratulated Councilmember Overbeck on his new position and commended his work with his constituents.

Mayor Troxell congratulated Councilmember Overbeck on his new position and commended his commitment to his district and service to Fort Collins.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to adopt Resolution 2018-130.

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| RESULT: | RESOLUTION 2018-130 ADOPTED [UNANIMOUS] |
| MOVER: | Gerry Horak, District 6 |
| SECONDER: | Ross Cunniff, District 5 |
| AYES: | Martinez, Stephens, Summers, Overbeck, Troxell, Cunniff, Horak |

21. **Items Relating to a Citizen-Initiated Charter Amendment Relating to Council Compensation. (Adopted on First Reading)**

A. *Possible Public Hearing and Motions Regarding Protest(s) of Ballot Language.*

B. *First Reading of Ordinance No. 173, 2018 Submitting a Citizen-Initiated Charter Amendment Relating to Council Compensation to a Vote of the Registered Electors of the City at the Regular Municipal Election on April 2, 2019.*

The purpose of this item is to set the ballot title for a citizen-initiated Charter amendment relating to Council compensation.

Any protest of the proposed ballot language must be received no later than Monday, December 17, 2018, at noon. The protest(s) shall be heard, considered, and resolved by Council prior to adoption of Ordinance No. 173, 2018. If protests are received, copies will be included in Council's "Read-before" packet.

Mayor Troxell stated there were no protests received; no public hearing is required.

City Clerk Coldiron discussed the ballot initiative and stated the petition circulated by Fred Kirsch was certified as sufficient on December 10. She stated the proposed Charter language would provide compensation to the Mayor and Councilmembers equal to the Fort Collins area median household income and benefits offered to full-time exempt City employees. The language also requires the Mayor and Councilmembers to report all Council related activities. This item would set the ballot title for the proposed amendment as required by Code.

Rich Stave questioned the meaning of transparency and asked about the timeline of the process.

Fred Kirsch thanked the City Clerk's Office for its work in processing the petitions, thanked the Community for Sustainable Energy staff for collecting signatures, and thanked those who signed the petitions. He stated this initiative would make democracy stronger by opening up the Council experience to people who care about the community but cannot afford to do it for the current pay. He also noted any member of Council could decline or lessen their compensation.

Gerry Gavaldon expressed support for citizen-initiated measures; however, this would change the dynamics of the government. He stated Councilmembers should not be motivated by money.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to adopt Ordinance No. 173, 2018, on First Reading.

Mayor Troxell requested staff address the initiative process. City Attorney Daggett replied the citizen initiative relates to an amendment to the City Charter; therefore, there is a state statute that defines the process for establishing the petition, circulating it for signatures and verifying signatures. If found to be sufficient, the governing body, or Council, is required to set the ballot title for the proposed amendment at its next meeting.

Councilmember Martinez stated he would support the motion because it is required by state statute; however, he expressed concern the proposed compensation would detract from Councilmembers running for a love of the city rather than a love of money.

Mayor Troxell stated this citizen initiative is problematic as it does not address a problem; Councilmembers serve for a love of the community.

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| RESULT: | ORDINANCE NO. 173, 2018, ADOPTED ON FIRST READING [UNANIMOUS] |
| MOVER: | Gerry Horak, District 6 |
| SECONDER: | Ross Cunniff, District 5 |
| AYES: | Martinez, Stephens, Summers, Overbeck, Troxell, Cunniff, Horak |

22. **Items Relating to the Adoption and Amendment of the International Codes Relating to Buildings and Building Regulations. (Adopted on First Reading)**

- A. *Public Hearing and First Reading of Ordinance No. 149, 2018, Amending Chapter 5, Article II, Division 2, of the Code of the City of Fort Collins for the Purpose of Repealing the 2015 International Building Code and Adopting the 2018 International Building Code, with Amendments.*
- B. *Public Hearing and First Reading of Ordinance No. 150, 2018, Amending Chapter 5, Article II, Division 2, of the Code of the City of Fort Collins for the Purpose of Repealing the 2015 Energy Conservation Code and Adopting the 2018 International Energy Conservation Code, with Amendments.*
- C. *Public Hearing and First Reading of Ordinance No. 151, 2018, Amending Chapter 5, Article II, Division 2, of the Code of the City of Fort Collins for the Purpose of Repealing the 2015 International Residential Code and Adopting the 2018 International Residential Code, with Amendments.*
- D. *Public Hearing and First Reading of Ordinance No. 152, 2018, Amending Chapter 5, Article II, Division 2, of the Code of the City of Fort Collins for the Purpose of Adopting the 2018 International Existing Building Code, with Amendments.*
- E. *Public Hearing and First Reading of Ordinance No. 153, 2018, Amending Chapter 5, Article II, Division 2, of the Code of the City of Fort Collins for the Purpose of Adopting the 2018 International Pool and Spa Code, with Amendments.*
- F. *Public Hearing and First Reading of Ordinance No. 154, 2018, Amending Chapter 5, Article II, Division 3, of the Code of the City of Fort Collins for the Purpose of Amending the 2006 International Property Maintenance Code.*
- G. *Public Hearing and First Reading of Ordinance No. 155, 2018, Amending Chapter 5, Article IV, of the Code of the City of Fort Collins for the Purpose of Repealing the 2015 Mechanical Code and Adopting the 2018 International Mechanical Code, with Amendments.*
- H. *Public Hearing and First Reading of Ordinance No. 156, 2018, Amending Chapter 5, Article IV, of the Code of the City of Fort Collins for the Purpose of Repealing the 2015 International Fuel Gas and Adopting the 2018 International Fuel Gas Code, with Amendments.*
- I. *Public Hearing and First Reading of Ordinance No. 174, 2018, Amending Chapter 5, Article V, Division 1 of the Code of the City of Fort Collins for the Purpose of Amending the Colorado Plumbing Code.*

The purpose of this item is to adopt the most up-to-date, comprehensive, and fully integrated body of codes, the 2018 International Codes (2018 I-Codes), regulating building construction and systems using prescriptive and performance-related provisions. The purpose of these Codes is to establish the minimum construction requirements to safeguard the public health, safety and general welfare by regulating structural strength and stability, sanitation, light and ventilation, energy conservation, and property protection from hazards attributed to the built environment within the City of Fort Collins. With factoring in local amendment costs, it is estimated the overall cost increase to build under the 2018 codes is less than 1%.

Because this is the first time the City is adopting the International Existing Building Code (IEBC) and International Pool and Spa Code (IPSC), as separate codes, all language being added to the City Code must be shown as yellow. Language that is being added as local amendment is highlighted in grey so that it is easily distinguishable from already-existing language in the IEBC and IPSC.

Liesel Hans, Water Conservation Manager, stated staff's proposed changes are in line with the City's Strategic Plan and triple bottom line approach. The City's water efficiency plan has a goal

to reduce water use by 11% by 2030. One area of focus within that plan is to encourage greater integration of water efficiency into land use planning, the Land Use Code, and Building Codes. Hans stated the proposal is to increase the maximum performance score for toilets from 350 to 600 grams, to reduce the flow rate for shower heads to achieve water savings, to match the private lavatory standard to the existing public lavatory standard, and to clarify language related to Water Sense certified fixtures and dual flush toilets.

Hans stated Council has the option to adopt the regulations as proposed, make no change, or to delay the decision. Hans stated changes have been made to the original staff recommendation based on input from industry stakeholders.

Kyle Jones, Kohler Company, opposed the proposed changes to the toilet performance score.

Rich Stave stated some low-flow shower heads do not allow for warm showers depending upon one's hot water heater. He also expressed concern that the change to toilet performance could lead to line back-ups.

Ryan Dyer, Kohler Company, stated Kohler is in support of water savings; however, he stated raising the toilet performance score to 600 grams is not necessarily going to reduce water usage. He stated there is no data to support that claim as dual flushes are often caused by issues not related to blockage.

Councilmember Summers stated there is a difference between what products are available and what is required by law. He stated ignoring and not working with stakeholders is shortsighted.

Councilmember Martinez asked if there are studies supporting water savings for the 600-gram requirement. Hans replied there is no evidence to suggest the higher MaP score will necessarily reduce water usage; however, it will improve performance and customer satisfaction. There is also no evidence a higher MAP score will counter-balance and result in poor performance in other ways.

Councilmember Martinez stated his experience with low-flow toilets in his home have raised concerns related to the need to double flush.

Councilmember Cunniff noted market pressures are causing MaP scores to increase and he hypothesized that is due to customer satisfaction.

Councilmember Summers asked about the basis of staff's experience. Hans replied the City has a variety of water conservation programs, including rebate and direct install programs that have resulted in hundreds of these toilets being installed across the service area with positive feedback.

Mayor Troxell asked about back-ups in the line between a home and the street. Hans replied the homeowner is responsible for their water service line and sewer line, but studies have shown no concerns in residential units for decreasing the flush requirement to 0.8 gallons.

Mayor Troxell asked if staff has been in touch with Fort Collins Loveland Water District and ELCO. Hans replied in the affirmative and stated both organizations have been made aware of the proposed changes and both systems support the recommendations being made.

Councilmember Martinez expressed concern the other agencies have only been made aware of a broader set of changes rather than these specific changes. Hans stated the agencies were made aware of the broader set of changes, which included these, rather than the more narrowed recommendations.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to adopt Ordinance No. 149, 2018, on First Reading.

Mayor Pro Tem Horak requested staff return at Second Reading with specific comments from ELCO and Fort Collins Loveland Water District.

Councilmember Martinez stated he cannot support the changes without some specific support from the other agencies.

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| RESULT: | ORDINANCE NO. 149, 2018, ADOPTED ON FIRST READING [7-0] |
| MOVER: | Gerry Horak, District 6 |
| SECONDER: | Ross Cunniff, District 5 |
| AYES: | Stephens, Overbeck, Troxell, Cunniff, Horak, Martinez, Summers |
| NAYS: | None |

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to adopt Ordinance No. 150, 2018, on First Reading.

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| RESULT: | ORDINANCE NO. 150, 2018, ADOPTED ON FIRST READING [7-0] |
| MOVER: | Gerry Horak, District 6 |
| SECONDER: | Ross Cunniff, District 5 |
| AYES: | Stephens, Overbeck, Troxell, Cunniff, Horak, Martinez, Summers |
| NAYS: | None |

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to adopt Ordinance No. 151, 2018, on First Reading.

Staff presented Council with their options at this point.

Councilmember Martinez made a motion, seconded by Councilmember Summers, to amend the motion to consider option 2.

The vote on the motion was as follows: Yeas: Troxell, Martinez and Summers. Nays: Horak, Overbeck, Stephens and Cunniff.

THE MOTION FAILED.

Mayor Pro Tem Horak commended staff work on the item.

Mayor Troxell stated he would support the motion based on staff's presentation.

Councilmember Stephens thanked staff for returning with the requested information so quickly and thanked the Building Code Review Committee for their work.

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| RESULT: | ORDINANCE NO. 151, 2018, ADOPTED ON FIRST READING [5 TO 2] |
| MOVER: | Gerry Horak, District 6 |
| SECONDER: | Ross Cunniff, District 5 |
| AYES: | Stephens, Overbeck, Troxell, Cunniff, Horak |
| NAYS: | Martinez, Summers |

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to adopt Ordinance No. 152, 2018, on First Reading.

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| RESULT: | ORDINANCE NO. 152, 2018, ADOPTED ON FIRST READING [7-0] |
| MOVER: | Gerry Horak, District 6 |
| SECONDER: | Ross Cunniff, District 5 |
| AYES: | Stephens, Overbeck, Troxell, Cunniff, Horak, Martinez, Summers |
| NAYS: | None |

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to adopt Ordinance No. 153, 2018, on First Reading.

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| RESULT: | ORDINANCE NO. 153, 2018, ADOPTED ON FIRST READING [7-0] |
| MOVER: | Gerry Horak, District 6 |
| SECONDER: | Ross Cunniff, District 5 |
| AYES: | Stephens, Overbeck, Troxell, Cunniff, Horak, Martinez, Summers |
| NAYS: | None |

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to adopt Ordinance No. 154, 2018, on First Reading.

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| RESULT: | ORDINANCE NO. 155, 2018, ADOPTED ON FIRST READING [7-0] |
| MOVER: | Gerry Horak, District 6 |
| SECONDER: | Ross Cunniff, District 5 |
| AYES: | Stephens, Overbeck, Troxell, Cunniff, Horak, Martinez, Summers |
| NAYS: | None |

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to adopt Ordinance No. 155, 2018, on First Reading.

RESULT: **ORDINANCE NO. 155, 2018, ADOPTED ON FIRST READING [7-0]**
MOVER: Gerry Horak, District 6
SECONDER: Ross Cunniff, District 5
AYES: Stephens, Overbeck, Troxell, Cunniff, Horak, Martinez, Summers
NAYS: None

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to adopt Ordinance No. 156, 2018, on First Reading.

RESULT: **ORDINANCE NO. 156, 2018, ADOPTED ON FIRST READING [7-0]**
MOVER: Gerry Horak, District 6
SECONDER: Ross Cunniff, District 5
AYES: Stephens, Overbeck, Troxell, Cunniff, Horak, Martinez, Summers
NAYS: None

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to adopt Ordinance No. 174, 2018, on First Reading.

RESULT: **ORDINANCE NO. 174, 2018, ADOPTED ON FIRST READING [5 TO 2]**
MOVER: Gerry Horak, District 6
SECONDER: Ross Cunniff, District 5
AYES: Stephens, Overbeck, Troxell, Cunniff, Horak
NAYS: Martinez, Summers

23. **First Reading of Ordinance No. 175, 2018, Amending Chapter 23 of the Code of the City of Fort Collins Related to Funding of Art in Public Places Contributions for Connexion and the Expenditure of Utilities Art in Public Places Funds and Rescinding Funds Provisionally Appropriated for Such Contributions.** (Adopted on First Reading)

The purpose of this item is to consider Ordinance No. 175, 2018 as a follow-up to Ordinance No. 056, 2018, which stated:

That the City Manager is directed to study whether the Art in Public Places (APP) Ordinance needs to be amended to address future Broadband System projects and to present any recommended amendments to Council before the end of 2018. This should include consideration of a contribution amount capped at .5% of the Broadband System's anticipated annual operating revenues once the system is in full operation, which capped amount is estimated to be from \$125,000 to \$150,000. The City Manager should also evaluate and recommend to Council how to fund art-in-public places contributions for Broadband System appropriations. It is Council's intent that some or all of the funds transferred by this Ordinance to the Cultural Services and Facilities Fund shall be transferred to the Light and Power Fund as appropriate and in accordance with the program amendments adopted by Council in follow up to this review process.

This Ordinance would also add back into the APP provisions of the City Code language that was inadvertently omitted in 2012, when the APP Code provisions were rewritten.

Ginny Sawyer, Senior Project Manager, discussed the Art in Public Places program (APP) which requires a 1% contribution to provide public art on any City construction projects over \$250,000.

In 2012, Utility contributions were capped to 0.5 of the annual operating revenue. It has been determined that about \$80 million of the broadband capital is eligible under the current APP definitions. If Connexion is considered under Light and Power, there would be about a \$600,000 payment to APP. If Connexion is considered to have its own fund, there is no operating revenue; therefore, the contribution would be \$0. The hybrid option C takes the estimated \$33 million of build-out annual revenue and applies it to the \$80 million, but not in the exact year.

Sawyer stated her public outreach showed a great deal of support for Art in Public Places as well as for the success of Connexion. She stated the Art in Public Places Board, as well as the Cultural Resources Board, would like to see the \$600,000 contribution, but on a delayed timeframe, which is being listed as option D.

Councilmember Overbeck asked if staff developed a range of estimates rather than the hard number. Sawyer replied the amount listed is option C is just an estimate and the goal is to determine the actual operating revenue from 2022, the first year of full build-out, and make the APP contribution based on that actual amount.

Councilmember Stephens asked if there is any flexibility in utilizing the APP funds for supporting the arts in more non-traditional ways. Sawyer replied the funds would be restricted similar to other utility funding and must benefit those who pay; however, the APP program is very flexible with different arts and styles.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Stephens, to adopt Ordinance No. 175, 2018, Option C, on First Reading.

Councilmember Cunniff suggested the addition of language relating to the application of subsequent modifications prior to Second Reading.

Councilmember Stephens encouraged the use of the funds to support the arts in general rather than one specific piece.

Mayor Pro Tem Horak stated this is a tax on the users of the broadband service.

Councilmember Stephens stated the funds should be used as part of the broader community to achieve goals related to bridging the digital divide.

Mayor Troxell stated the success of Connexion should be primary and that will drive the APP success.

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| RESULT: | ORDINANCE NO. 175, 2018, OPTION C, ADOPTED ON FIRST READING [UNANIMOUS] |
| MOVER: | Gerry Horak, District 6 |
| SECONDER: | Kristin Stephens, District 4 |
| AYES: | Martinez, Stephens, Summers, Overbeck, Troxell, Cunniff, Horak |

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

● **OTHER BUSINESS**

Councilmember Cunniff requested and received Council support to direct staff to contemplate a change that would allow citizens and Councilmembers to pull Resolutions and Ordinances rather than an entire item.

Councilmember Overbeck thanked Council for collaborating on various issues and thanked staff for their work and service.

Executive Session Authorized

Mayor Pro Tem Horak made a motion, seconded by Councilmember Martinez, that City Council go into executive session for the purpose of meeting with the City Attorney's and City Management staff to discuss the following matter as permitted under Section 22-31(A)(2) of the City Code and Colorado Revised Statute Section 24-6-402(4)(b): 1. Specific legal questions related to litigation or potential litigation by the Mennonite Fellowship regarding the Fellowship's locker program approval and, 2. The manner in which particular policies, practices, or regulations of the City related to the Mennonite Fellowship locker program may be affected by existing or proposed provisions of federal, state, or local laws.

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| RESULT: | ADOPTED [6 TO 1] |
| AYES: | Martinez, Stephens, Overbeck, Troxell, Cunniff, Horak |
| NAYS: | Summers |

● **ADJOURNMENT**

The meeting adjourned at 10:56 PM.

Mayor

ATTEST:

City Clerk

January 2, 2019

COUNCIL OF THE CITY OF FORT COLLINS, COLORADO

Council-Manager Form of Government

Regular Meeting – 6:00 PM

● **ROLL CALL**

PRESENT: Martinez, Stephens, Summers, Troxell, Cunniff, Horak
(Councilmember Overbeck resigned his office effective January 1, 2019)
Staff Present: Atteberry, Daggett, Coldiron Overbeck

● **AGENDA REVIEW: CITY MANAGER**

City Manager Atteberry stated Item No, 10, *Resolution 2019-006 Making Appointments to Various Boards, Commissions, and Authorities of the City of Fort Collins*, has been amended to appoint Dwight Hall to the Downtown Development Authority and reappoint Mike Webber to the Land Conservation and Stewardship Board.

● **PUBLIC COMMENT**

Jessica MacMillan requested the cell tower in the Chesapeake Subdivision in Northeast Fort Collins be expedited.

● **PUBLIC COMMENT FOLLOW-UP**

City Manager Atteberry stated he would follow-up with Ms. MacMillan's questions.

● **CONSENT CALENDAR**

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to adopt and approve all items on the Consent Agenda.

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

1. **Items Relating to the Adoption and Amendment of the International Codes Relating to Buildings and Building Regulations. (Adopted)**

- A. Second Reading of Ordinance No. 150, 2018, Amending Chapter 5, Article II, Division 2, of the Code of the City of Fort Collins for the Purpose of Repealing the 2015 Energy Conservation Code and Adopting the 2018 International Energy Conservation Code, with Amendments.
- B. Second Reading of Ordinance No. 152, 2018, Amending Chapter 5, Article II, Division 2, of the Code of the City of Fort Collins for the Purpose of Adopting the 2018 International Existing Building Code, with Amendments.

- C. Second Reading of Ordinance No. 153, 2018, Amending Chapter 5, Article II, Division 2, of the Code of the City of Fort Collins for the Purpose of Adopting the 2018 International Pool and Spa Code, with Amendments.
- D. Second Reading of Ordinance No. 154, 2018, Amending Chapter 5, Article II, Division 3, of the Code of the City of Fort Collins for the Purpose of Amending the 2006 International Property Maintenance Code.
- E. Second Reading of Ordinance No. 155, 2018, Amending Chapter 5, Article IV, of the Code of the City of Fort Collins for the Purpose of Repealing the 2015 Mechanical Code and Adopting the 2018 International Mechanical Code, with Amendments.
- F. Second Reading of Ordinance No. 156, 2018, Amending Chapter 5, Article IV, of the Code of the City of Fort Collins for the Purpose of Repealing the 2015 International Fuel Gas and Adopting the 2018 International Fuel Gas Code, with Amendments.

These Ordinances, unanimously adopted on First Reading on December 18, 2018, adopt the most up-to-date, comprehensive, and fully integrated body of codes, the 2018 International Codes (2018 I-Codes), regulating building construction and systems using prescriptive and performance-related provisions. The purpose of these Codes is to establish the minimum construction requirements to safeguard the public health, safety and general welfare by regulating structural strength and stability, sanitation, light and ventilation, energy conservation, and property protection from hazards attributed to the built environment within the City of Fort Collins. With factoring in local amendment costs, it is estimated the overall cost increase to build under the 2018 codes is less than 1%.

Note to Council: *Please note that unlike ordinances normally adopted on Second Reading, the attached Ordinances still contain strikeouts and new language to clearly reflect the modifications made by local amendment to the various uniform Codes being adopted.* Each Ordinance authorizes the City Attorney and the City Clerk to modify the formatting and to make such other amendments to the Ordinances as necessary to facilitate publication in the Fort Collins Municipal Code, so long as such modifications and amendments do not change the substance of the Code provisions.

Also, please note that Ordinance No. 149, 2018, *Amending Chapter 5, Article II, Division 2, of the Code of the City of Fort Collins for the Purpose of Repealing the 2015 International Building Code and Adopting the 2018 International Building Code, with Amendments*, Ordinance No. 151, 2018, *Amending Chapter 5, Article II, Division 2, of the Code of the City of Fort Collins for the Purpose of Repealing the 2015 International Residential Code and Adopting the 2018 International Residential Code, with Amendments* and Ordinance No. 174, 2018, *Amending Chapter 5, Article V, Division 1 of the Code of the City of Fort Collins for the Purpose of Amending the Colorado Plumbing Code* will be considered under Discussion items on this Agenda.

- 2. **Second Reading of Ordinance No. 173, 2018 Submitting a Citizen-Initiated Charter Amendment Relating to Council Compensation to a Vote of the Registered Electors of the City at the Regular Municipal Election on April 2, 2019. (Adopted)**

This Ordinance, unanimously adopted on First Reading on December 18, 2018, sets the ballot title for a citizen-initiated Charter amendment relating to Council compensation.

- 3. **Second Reading of Ordinance No. 175, 2018, Amending Chapter 23 of the Code of the City of Fort Collins Related to Funding of Art in Public Places Contributions for Connexion and the Expenditure of Utilities Art in Public Places Funds and Rescinding Funds Provisionally Appropriated for Such Contributions. (Adopted)**

This Ordinance, unanimously adopted on First Reading on December 18, 2018, authorizes a delayed payment in early 2023 based on the 2022 operating revenue of Connexion, along with an ongoing Art in Public Places (APP) obligation going forward, consistent with the principles of the APP program (treating Connexion as separate from the Light and Power Fund).

This Ordinance also adds back into the APP provisions of the City Code language that was inadvertently omitted in 2012, when the APP Code provisions were rewritten.

At the Council's request, the Ordinance is being amended on Second Reading to make clear that any future changes to the APP Code provisions will also apply to Connexion.

4. **First Reading of Ordinance No. 001, 2019, Appropriating Unanticipated Revenue in the Capital Project Fund and Appropriating Prior Year Reserves in the General Fund and Authorizing the Transfer of Appropriations from the General Fund to the Capital Project Fund Gardens on Spring Creek Visitors Center Project and Transferring Appropriations from the Capital Project Fund Gardens on Spring Creek Visitors Center Project to the Cultural Services and Facilities Fund for the Art in Public Places Program. (Adopted)**

The purpose of this item is to appropriate revenues raised by the Gardens on Spring Creek and Friends of the Gardens and Gardens Reserves for completion of the Visitor's Center.

5. **Resolution 2019-001 Authorizing the Execution of an Intergovernmental Agreement Between the City and the Colorado Department of Transportation for the Maintenance of Traffic Signals, Signs and Roadway Markings in the Fort Collins Growth Management Area. (Adopted)**

The purpose of this item is to approve an intergovernmental agreement (IGA) between the City and the Colorado Department of Transportation (CDOT) for the City to maintain traffic control devices (signals, signs, and markings) on state highways within the City's Growth Management Area with reimbursement from CDOT. This is the continuation of a long-standing agreement that benefits both parties as City control allows the City to best serve residents and CDOT has fewer maintenance responsibilities. The IGA is for a five-year period and covers fiscal years 2019-2023. This IGA reflects updated costs from the previous long-term agreement.

6. **Resolution 2019-002 Authorizing the Mayor to Execute a Renewal of an Intergovernmental Agreement with Larimer County to Continue Support for the Larimer County Conservation Corps Water and Energy Program. (Adopted)**

The purpose of this item is to seek City Council approval of a renewed intergovernmental agreement (IGA) between the City of Fort Collins and Larimer County for funding of the Larimer County Conservation Corp (LCCC) Water and Energy Program. The IGA allows for four further annual renewals for a total of five years, based on budget appropriations. The City of Fort Collins Utilities has partnered with the LCCC since 2010 with tremendous success. LCCC crews have supported local resource conservation by providing home efficiency assessments to customers of Fort Collins Utilities and Loveland Water and Power. Home efficiency assessments include an on-site assessment, energy and water saving retrofits and customer education. By the end of the 2018 spring season, LCCC crews have assessed over 3,200 homes in Fort Collins and enabled these customers to save on their utility bills. Due to its success, the Program is now part of the City's Utilities Affordability Portfolio, which provides a mechanism for low to moderate income customers to control their energy use and costs for the benefit of all City electric and water utility customers.

7. **Resolution 2019-003 Approving a Waiver of the 2017 PILOT for Housing Catalyst. (Adopted)**

The purpose of this item is to approve a waiver of the 2017 PILOT of \$9,638 for Housing Catalyst per the 1971 Cooperative Agreement.

8. **Resolution 2019-004 Supporting the Grant Application for a School Yard Initiative Grant from the State Board of Great Outdoors Colorado on Behalf of Colorado Early Colleges-Fort Collins for the Innovation Urban Farms Project. (Adopted)**

The purpose of this item is to obtain Council approval to apply for a School Yard Initiative Grant from Great Outdoors Colorado (GOCO) on behalf of Colorado Early Colleges-Fort Collins (CEC) for the

Innovation Urban Farms project. Per GOCO requirements, the application must be submitted by local governments in partnership with schools.

9. **Resolution 2019-005 Appointing Councilmember Ross Cunniff to Serve as the City's Representative on the Poudre Heritage Alliance Board. (Adopted)**

The purpose of this item is to appoint Councilmember Ross Cunniff to the Poudre Heritage Alliance (PHA).

10. **Resolution 2019-006 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 City boards, commissions, and authorities due to resignations of board members and vacancies to be created upon the expiration of terms of current members. Applications were solicited during September, October, and November. Council teams interviewed applicants during November and December. 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**

● **DISCUSSION ITEMS**

11. **Items Relating to the Adoption and Amendment of the International Building Code, International Residential Code and Amendment to the Colorado Plumbing Code. (Adopted on Second Reading)**

A. *Second Reading of Ordinance No. 149, 2018, Amending Chapter 5, Article II, Division 2, of the Code of the City of Fort Collins for the Purpose of Repealing the 2015 International Building Code and Adopting the 2018 International Building Code, with Amendments. (Impact resistance of asphalt shingles found in amendment 64, page 29.)*

B. *Second Reading of Ordinance No. 151, 2018, Amending Chapter 5, Article II, Division 2, of the Code of the City of Fort Collins for the Purpose of Repealing the 2015 International Residential Code and Adopting the 2018 International Residential Code, with Amendments. (Impact resistance of asphalt shingles found in amendment 54, page 34.)*

C. *Second Reading of Ordinance No. 174, 2018, Amending Chapter 5, Article V, Division 1 of the Code of the City of Fort Collins for the Purpose of Amending the Colorado Plumbing Code.*

Ordinance No. 149, 2018 was unanimously adopted on First Reading on December 18, 2018. Ordinance Nos. 151 and 174, 2018, were adopted on First Reading on December 18, 2018 by a vote of 5-2 (Nays: Martinez, Summers).

The 2018 International Codes (2018 I-Codes) represent the most up-to-date body of codes regulating building construction using prescriptive and performance-related provisions. The purpose of these codes is to establish the minimum construction requirements to safeguard the public health, safety and general welfare by regulating structural strength and stability, sanitation, light and ventilation, energy conservation, and property protection from hazards attributed to the built environment within the City of Fort Collins. With factoring in local amendment costs, it is estimated the overall cost increase to build under the 2018 codes is less than 1%.

Note to Council: Please note that unlike ordinances normally adopted on Second Reading, the attached Ordinances still contain strikeouts and new language to clearly reflect the modifications made by local amendment to the various uniform Codes being adopted. Each Ordinance authorizes the City Attorney and the City Clerk to modify the formatting and to make such other amendments to the Ordinances as necessary to facilitate publication in the Fort Collins Municipal Code, so long as such modifications and amendments do not change the substance of the Code provisions.

Russ Hovland, Chief Building Official, stated a change has been added to the local amendments in both the commercial and residential sections of the Code that would require impact resistant class 4 all-asphalt roof shingles to be installed on any building, either new builds or re-roofs. The Building Code Review Committee concluded the 5-10% increased cost is offset by the reduced number of shingles being sent to the landfill given the number of re-roofs due to hail storms in recent years.

Jonathon Nagel, Environmental Compliance Inspector, noted the disposal of the shingles in the landfill has decreased its life expectancy and stated there is no recycle option for asphalt shingles.

Chadwick Collins, Asphalt Roof and Manufacturers Association, stated the proposed requirement implementing this performance level is a barrier to the market for asphalt shingles. He stated the lack of recycling options is not being addressed by this amendment and any performance standard should be applied equally to all roofing products.

Councilmember Martinez asked why the performance standards are not being applied to other roofing materials. Hovland replied approximately 97% of roofing materials in the city are asphalt. Additionally, he stated there is not a great deal of data on the durability of alternate roofing materials.

Councilmember Cunniff asked if the Code would be equally effective if the word “asphalt” were replaced with “non-recyclable.” Nagel replied that would be plausible.

Councilmember Summers asked about the current Building Code requirement for shingles. Hovland replied there is currently no impact-resistance rating required at all.

Councilmember Martinez asked if shed re-roofs would require these shingles. Hovland replied the language is written so as to make this requirement for all structures.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to adopt Ordinance No. 149, 2018, on Second Reading.

Councilmember Cunniff supported the amendment as written, given the costs are recovered by lower roofing costs which translate to lower insurance costs over time.

Councilmember Stephens asked if other roofing materials are recyclable. Nagel replied metal roofs are very recyclable and some tile roofs are recyclable.

Councilmember Summers asked when it would become obvious if this regulation has had an impact on the landfill life expectancy. Hovland replied part of this ordinance change requires a reporting of the amount of material removed for any roof or re-roof installation by the installer.

Councilmember Martinez asked how an inspector could determine shingles are class 4. Hovland replied the plan is for the inspector to compare the installed shingles to what is in the packaging.

Contractors can also be required to submit a field verification form, or an affidavit, from the installer.

Councilmember Martinez discussed the importance of education in ensuring this regulation is met.

Councilmember Cunniff suggested random audits of ongoing roofing projects. Hovland replied that would be possible.

Councilmember Summers asked if roofing permits will include an education component. Hovland replied in the affirmative.

Councilmember Summers asked how the amount of asphalt being taken to the landfill is determined. Nagel replied the estimate of 8,500 tons per year assumes an average roof size multiplied by the number of re-roof permits multiplied by the weight of the material.

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| RESULT: | ORDINANCE NO. 149, 2018, ADOPTED ON SECOND READING [5 TO 1] |
| MOVER: | Gerry Horak, District 6 |
| SECONDER: | Ross Cunniff, District 5 |
| AYES: | Stephens, Troxell, Cunniff, Horak, Martinez |
| NAYS: | Summers |

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to adopt Ordinance No. 151, 2018, on Second Reading.

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| RESULT: | ORDINANCE NO. 151, 2018, ADOPTED ON SECOND READING [5 TO 1] |
| MOVER: | Gerry Horak, District 6 |
| SECONDER: | Ross Cunniff, District 5 |
| AYES: | Stephens, Troxell, Cunniff, Horak, Martinez |
| NAYS: | Summers |

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to adopt Ordinance No. 174, 2018, on Second Reading.

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| RESULT: | ORDINANCE NO. 174, 2018, ADOPTED ON SECOND READING [4 TO 2] |
| MOVER: | Gerry Horak, District 6 |
| SECONDER: | Ross Cunniff, District 5 |
| AYES: | Stephens, Troxell, Cunniff, Horak |
| NAYS: | Martinez, Summers |

● **OTHER BUSINESS**

Councilmember Summers asked if it would be possible for staff to brief Council on the local Building Code amendments as the process is ongoing. City Manager Atteberry replied improvements can always be made and suggested the process could be reviewed.

Mayor Troxell supported Councilmember Summers' suggestion.

Councilmember Martinez expressed concern about the lack of availability of inspectors currently, let alone with the new regulation.

● **ADJOURNMENT**

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to adjourn to 6:00 PM Tuesday, January 8, 2019, for a proposed executive session to conduct the annual performance reviews of the City Manager, City Attorney, and Municipal Judge, and for such other business as may come before the Council.

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

The meeting adjourned at 6:45 PM.

Mayor

ATTEST:

City Clerk

January 8, 2019

COUNCIL OF THE CITY OF FORT COLLINS, COLORADO

Council-Manager Form of Government

Adjourned Meeting – 6:00 PM

● ROLL CALL

PRESENT: Martinez, Stephens, Summers, Troxell, Cunniff, Horak

Staff present: Atteberry, Daggett, Coldiron

1. Executive Session Authorized.

The City Council meeting of January 2, 2019 was adjourned to this date and time to allow Council to consider adjourning into executive session for the purpose of conducting the yearly evaluations of the Chief Judge, City Attorney and City Manager.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, that Council go into executive session, as permitted under Section 2-31(a)(1) of the City Code and Colorado Revised Statutes Section 24-6-402(4)(f)(I) for the purpose conducting the annual performance reviews of the Chief Municipal Judge, City Attorney and City Manager.

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

● ADJOURNMENT

The meeting adjourned at 10:13 PM.

Mayor

ATTEST:

City Clerk