

Wade Troxell, Mayor
Kristin Stephens, District 4, Mayor Pro Tem
Susan Gutowsky, District 1
Julie Pignataro, District 2
Ken Summers, District 3
Ross Cunniff, District 5
Emily Gorgol, District 6

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

Cablecast on FCTV Channel 14
and Channel 881 on the Comcast cable system

Carrie Daggett
City Attorney

Darin Atteberry
City Manager

Delynn Coldiron
City Clerk

Regular Meeting September 3, 2019

Persons wishing to display presentation materials using the City's display equipment under the Citizen Participation portion of a meeting or during discussion of any Council item must provide any such materials to the City Clerk in a form or format readily usable on the City's display technology no later than two (2) hours prior to the beginning of the meeting at which the materials are to be presented.

NOTE: All presentation materials for appeals, addition of permitted use applications or protests related to election matters must be provided to the City Clerk no later than noon on the day of the meeting at which the item will be considered. See [Council Rules of Conduct in Meetings](#) for details.

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

Proclamations and Presentations 5:30 p.m.

A. Friends of Preservation Awards.

Regular Meeting 6:00 p.m.

- **PLEDGE OF ALLEGIANCE**
- **CALL MEETING TO ORDER**
- **ROLL CALL**
- **AGENDA REVIEW: CITY MANAGER**
 - City Manager Review of Agenda.
 - Consent Calendar Review

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

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

- **PUBLIC COMMENT**

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

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

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

- **PUBLIC COMMENT FOLLOW-UP**

Consent Calendar

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

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

If the presiding officer determines that the number of items pulled from the Consent Calendar by citizens is substantial and may impair the Council's ability to complete the planned agenda, the presiding officer may declare that the following process will be used to simplify consideration of the Citizen-Pulled Consent Items:

(1) All citizen-pulled items (to be listed by number) will be considered as a group under the heading "Consideration of Citizen-Pulled Consent Items."

(2) At that time, each citizen wishing to speak will be given a single chance to speak about any and all of the items that have been moved to that part of the agenda.

(3) After the citizen comments, any Councilmember may specify items from the list of Citizen-Pulled Consent Items for Council to discuss and vote on individually. Excluding those specified items, Council will then adopt all "Citizen-Pulled Consent Items" as a block, by a single motion, second and vote.

(4) Any Citizen-Pulled Consent Items that a Councilmember has asked to be considered individually will then be considered using the regular process for considering discussion items.

1. Second Reading of Ordinance No. 101, 2019, Making Appropriations and Authorizing Transfers of Appropriations for the Safe Routes to School Program and Grant From the Colorado Department of Transportation and Related Art in Public Places.

This Ordinance, unanimously adopted on First Reading on August 20, 2019, requests an appropriation of \$495,851 in unappropriated funds received through a grant for the Safe Routes to School program (part of the City's FC Moves Department). The Colorado Department of Transportation (CDOT) has awarded a \$495,851 grant for design and construction of a new bicycle and pedestrian crossing at West Drake Road and Hampshire Road recommended in the City's 2014 Bicycle Master Plan. This project will provide a crossing for K-8 students connecting to nearby Blevins Middle School and Olander Elementary, while also supporting the completion of the low-stress Hampshire Bikeway. This project requires a 20% local match (\$123,963), which will be paid from funds already appropriated in the Engineering Department's Pedestrian Program and the FC Moves Department's CCIP - Bike Plan Implementation fund. A total of \$4,959 is provided for Art in Public Places for the Project.

2. Second Reading of Ordinance No. 102, 2019, Amending Section 2-569 of the Code of the City of Fort Collins Regarding the Ethics Review Board.

This Ordinance, unanimously adopted on First Reading on August 20, 2019, changes City Code Section 2-569(d)(1) to extend the time for initial screening of an ethics complaint by the Ethics Review Board from ten working days to thirty working days, plus an additional fourteen days in the event of extenuating circumstances.

3. Second Reading of Ordinance No. 103, 2019, Adding a New Article XII to Chapter 12 of the Code of the City of Fort Collins Relating to the Cultivation and Extraction of Hemp.

This Ordinance, unanimously adopted on First Reading on August 20, 2019, regulates the personal cultivation of hemp within the City of Fort Collins in the same manner that marijuana cultivation is regulated.

4. Second Reading of Ordinance No. 104, 2019, Making Various Amendments to the City of Fort Collins Land Use Code.

This Ordinance, unanimously adopted on First Reading on August 20, 2019, makes amendments to the Land Use Code. The proposed revisions, clarifications and additions to the Code that address specific subject areas that have arisen since the last update was initiated in the spring of 2019.

5. Second Reading of Ordinance No. 105, 2019, Authorizing the Acquisition by Eminent Domain Proceedings of Certain Lands Necessary to Construct Public Improvements in Connection with the Realigned Lemay Avenue Bridge over Vine Drive and Burlington Northern Santa Fe Railroad Tracks.

This Ordinance, unanimously adopted on First Reading on August 20, 2019, seeks authorization from City Council to use eminent domain, if necessary, to acquire property interests along Realigned Lemay Avenue. The acquisitions will include purchase of rights-of-way and permanent easements from three property owners. To meet project construction timelines, timely acquisition of the property interests is necessary. Staff fully intends to negotiate in good faith with the affected owners and is requesting authorization to use eminent domain only if project staff and the City Attorney's office believe such action is necessary after reasonable efforts to negotiate an acquisition.

This action would ensure the City can secure all the right-of-way required to build the entire project and complete the right-of-way acquisition phase of the project. There may still be a need for acquisition of future temporary construction easements, but no additional permanent right-of-way acquisition.

6. Second Reading of Ordinance No. 106, 2019, Authorizing the Termination of the Declaration of Covenants, Conditions, Restrictions and Easements for Inverness Innovation Park.

This Ordinance, unanimously adopted on First Reading on August 20, 2019, authorizes the termination of a restrictive covenant that is obsolete and no longer beneficial to property on East Vine Drive.

7. First Reading of Ordinance No. 109, 2019 Appropriating Prior Year Reserves in the General Fund for the Waste Innovation Program.

The purpose of this item is to move \$51,275 accumulated during 2018 in the Waste Innovation Fund account into the City's General Fund account for approved projects to develop new organizational processes that enable departments to divert more waste material from landfill disposal.

8. First Reading of Ordinance No. 110, 2019, Increasing the Current Loan Fund Available for the Epic Loan Program and Appropriating Funds for the Program From Reserves in the Light and Power Fund.

The purpose of this item is consideration of an Ordinance to increase from \$1.6 million to \$2,488,350 the revolving loan fund available in the Utilities' Light and Power Fund to provide loans to Utilities' customers under the Epic Loan Program (Program) and to appropriate these funds for the Program. This increase in the loan fund is the result of the City recently receiving for the Program a grant of \$200,000 from the Colorado Energy Office and a grant of \$688,350 from Bloomberg Philanthropies. The Program, formerly known as the On-Bill Utility Financing Program, provides low-cost financing to Utilities' customers for energy efficiency, water efficiency, and renewable energy improvements.

The Ordinance also provides that this loan fund will increase by three proposed future borrowings by the City's Electric Utility Enterprise from third-party lenders as these borrowings are approved by the Board of the Enterprise. These borrowings are: (i) up to a \$1 million loan from the Colorado Energy Office, (ii) up to a \$2.5 million loan from U. S. Bank (to be considered by the Board of the Enterprise at this September 3rd meeting), and (iii) up to a \$1.5 million loan from either the Colorado Clean Energy Fund or a bank partnering with it (Enterprise Borrowings). If the Enterprise Borrowings are approved by the Enterprise Board, the revolving loan fund for the Program will be increased under the Ordinance to \$7,488,350.

This item was discussed at the July 15, 2019, Council Finance Committee meeting with support to bring forward the included ordinance for full Council consideration.

9. First Reading of Ordinance No. 111, 2019, Amending Section 17-142 of the Code of the City of Fort Collins Regarding Public Nudity.

The purpose of this item is to amend the public nudity City Code provisions to make them consistent with the permanent injunction issued by the United States District Court and agreed to by the City.

10. Resolution 2019-093, Affirming that Digital Billboard Regulations Are Not a Council Priority.

The purpose of this item is to limit further consideration of new digital billboard regulations.

END CONSENT

● **CONSENT CALENDAR FOLLOW-UP**

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

● **STAFF REPORTS**

A. Actual Cumulative Revenue Compared to Budget & Accuracy of Cumulative Budgeting Expenses (staff: Lawrence Pollack)

B. Wood Recycling Program: (staff: Kendra Boot)

● **COUNCILMEMBER REPORTS**

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

Discussion Items

The method of debate for discussion items is as follows:

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

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

11. Second Reading of Ordinance No. 107, 2019, Approving a Settlement Agreement in the Fort Collins Mennonite Fellowship v. City of Fort Collins Lawsuit and, as Contemplated Under the Agreement, Amending the Conditions Previously Imposed in City Council Resolution 2018-104 that Approved the Fort Collins Mennonite Fellowship's External Storage Lockers Minor Amendment. (staff: Carrie Daggett, John Duval; no staff presentation; 10 minute discussion)

This Ordinance, adopted on First Reading on August 20, 2019, by a vote of 6-1 (Nays: Gutowsky) approves a lawsuit the Fort Collins Mennonite Fellowship (Fellowship) and its pastor Steve Ramer filed last year in federal district court against the City and City Council. The Fellowship and Pastor Ramer sued the City and Council challenging the four conditions the Council imposed in October 2018 on the Fellowship's installation and operation of outdoor lockers at its 300 East Oak Street church building it wished to make available to individuals experiencing homelessness (Locker Program). These four conditions were imposed as part of the Council upholding on appeal the Planning and Zoning Board's previous approval of the Fellowship's application for a minor amendment under the City's Land Use Code to allow the Locker Program.

Under the proposed settlement, the existing four conditions will be replaced with ten new conditions, the City will pay \$60,000 to reimburse the Fellowship and Pastor Ramer for the attorney fees and costs they have incurred in the lawsuit and the lawsuit will be dismissed with prejudice.

12. Second Reading of Ordinance No. 108, 2019, Amending Article XVII, Section 15 of the Code of the City of Fort Collins Relating to Short Term Rentals. (staff: Ginny Sawyer; no staff presentation; 15 minute discussion)

This Ordinance, adopted on First Reading on August 20, 2019, by a vote of 5-2 (Nays: Pignataro, Summers) codifies regulations addressing existing short-term rental (STR) licenses in multi-family buildings, to decriminalize short-term rental offenses, and to clarify that the thirty-day limit in Section 15-646 was intended to be calendar days. These actions come after multiple work sessions and outreach.

13. Resolution 2019-092 Approving the Northfield Metro District Nos. 1 through 3 Consolidated Service Plan. (staff: Josh Birks; 10 minute staff presentation; 45 minute discussion)

The purpose of this item is for City Council to consider approval of the Northfield Metropolitan District Nos. 1 through 3 Consolidated Service Plan (the "Service Plan"). The developer of the proposed Northfield Development has submitted the Service Plan to support the proposed development of approximately 56 acres located north of Vine Street on the west side of Lindenmeier Road/Lemay Avenue (southeast of the Lake Canal and north of the to-be designated historic Alta Vista neighborhood). The development is anticipated to include 442 residential units and a mixed-use center that will offer light commercial use on the first floor, residential for-rent units on the second floor, and small amenities open to the public. The project has committed to provide approximately 15 percent for-sale affordable housing units. A Mill Levy Cap of 50.00 mills has been proposed under the Service Plan to support the project.

As per the Council's Metro District Policy, proceedings for a public hearing for a Metro District Service Plan public hearing are as follows:

1. Announcement of item
2. Consideration of any procedural issues
3. Explanation of the application by City staff
4. Presentation by the applicant (suggested time: 15 minutes)
5. Public testimony regarding the application
6. Rebuttal testimony by the applicant (suggested time: 10 minutes)
7. Councilmember questions of City staff and the applicant
8. Motion, discussion and vote by City Council.

The public hearing for this Service Plan was previously noticed in accordance with Council's Metro District Policy to be conducted at Council's August 20, 2019, meeting. However, Council voted at that meeting, as authorized in Section 2.c. of the Council's Rules of Procedure, to continue this matter to the Council's next regular meeting, which is this September 3, 2019, meeting. The applicant mailed on August 22, 2019, notice of this continuance to the fee-title owners of property within the proposed Districts and published this notice in the *Coloradoan* on August 24, 2019.

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

- **OTHER BUSINESS**

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

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

- **ADJOURNMENT**

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



Wade Troxell, President
Kristin Stephens, District 4, Vice President
Susan Gutowsky, District 1
Julie Pignataro, District 2
Ken Summers, District 3
Ross Cunniff, District 5
Emily Gorgol, District 6

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

Cablecast on FCTV, Channel 14
and Channel 881 on the Comcast cable system

Carrie Daggett
City Attorney

Darin Atteberry
Executive Director

Delynn Coldiron
Secretary

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

Electric Utility Enterprise Board Meeting September 3, 2019 (after the Regular Council Meeting which begins at 6:00 pm)

- CALL MEETING TO ORDER**

1. Consideration and Approval of the Minutes from the July 16, 2019 Electric Utility Enterprise Board Meeting.

The purpose of this item is to approve the minutes from the July 16, 2019 Electric Utility Enterprise Board meeting.

2. First Reading of Ordinance No. 007, Authorizing a Loan Agreement with U.S. Bank National Association to Provide Funding for the Epic Loan Program. (staff: Travis Storin, Sean Carpenter; 10 minute presentation; 15 minute discussion)

In 2012, the City Council established by ordinance the On-Bill Utility Financing Program, which is now known as the Epic Loan Program (Program). The Program was established then and has been operated since to assist customers of Fort Collins Utilities (Utilities) in financing home energy efficiency, water efficiency and renewable energy improvements by making loans to customers who are property owners (Epic Loans). Funds for these Epic Loans have come from reserves in the Light and Power and Water funds (\$1.6 million). The City has also recently been awarded grants for the Program from the Colorado Energy Office (\$200,000) and from Bloomberg Philanthropies (\$688,350). At the September 3, 2019 Council meeting an increase for the current loan balance available for the Program reflecting these funds and proposed borrowings will be considered.

City staff is now proposing that the Electric Utility Enterprise (Enterprise) borrow additional capital for the Program from three different third-party lenders. The first of these borrowings is proposed in this Ordinance. It authorizes the Enterprise to borrow up to \$2.5 million, under a line of credit, from U. S. Bank (Bank) as additional funding for the Program. The terms and conditions for this loan are set out in the Loan Agreement attached as Exhibit "A" to the Ordinance.

This item was discussed at the July 15, 2019, Council Finance Committee meeting with support to bring forward this Ordinance for the Electric Utility Enterprise Board's consideration.

- **OTHER BUSINESS**
- **ADJOURNMENT**