



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

Remote Meeting
City Hall West
300 LaPorte Avenue
Fort Collins, Colorado
Cablecast on FCTV
Channel 14 on Connexion
Channel 14 and 881 on Comcast

Carrie Daggett
City Attorney

Darin Atteberry
City Manager

Delynn Coldiron
City Clerk

Regular Meeting March 2, 2021

PUBLIC PARTICIPATION OPTIONS

There will be three options for people who would like to participate in the meeting:

- Live via the Zoom online meeting,
- Live via the telephone,
- By submitting emails to Council at CityLeaders@fcgov.com.

All options will be available for those wishing to provide general public comment, as well as public comment during individual discussion items.

PUBLIC PARTICIPATION (ONLINE VIA ZOOM):

Individuals who wish to address Council via remote public participation can do so through Zoom at <https://zoom.us/j/98241416497>. (The link and instructions are also posted at www.fcgov.com/councilcomments.) Individuals participating in the Zoom session should watch the meeting through that site, and not via FCTV, due to the streaming delay and possible audio interference.

The Zoom meeting will be available beginning at 5:15 p.m. on the day of the meeting. Participants wanting to ensure their equipment setup is working should join prior to 6:00 p.m. For public comments, the Mayor will ask participants to click the "Raise Hand" button to indicate you would like to speak at that time. Staff will moderate the Zoom session to ensure all participants have an opportunity to address Council.

In order to participate, you must:

- Have an internet-enabled smartphone, laptop or computer. Using earphones with a microphone will greatly improve your audio experience.
- Join the Zoom meeting using the link on the front page of the agenda or on the City's home webpage at www.fcgov.com.
- If you use the City's home page, simply click on the "Participate remotely in Council Meeting" link shown near the top of the page.

PUBLIC PARTICIPATION (VIA PHONE):

- Dial the public participation phone number, **1-346-248-7799**, and then enter the Meeting ID **982 4141 6497** followed by the pound sign (#).
- The meeting will be available beginning at 5:15 p.m. Please call in to the meeting prior to 6:00 p.m., if possible. For public comments, the Mayor will ask participants to indicate if you would like to speak at that time – **phone participants will need to press *9 to do this**. Staff will be moderating the Zoom session to ensure all participants have an opportunity to address Council.

When participating online or by phone, DO NOT Watch/stream FCTV at the same time due to streaming delay and possible audio interference.

PUBLIC PARTICIPATION (VIA EMAIL):

Individuals not comfortable or able to access the Zoom platform or participate by phone are encouraged to participate by emailing general public comments to CityLeaders@fcgov.com. If you have specific comments on any of the discussion items scheduled, please make that clear in the subject line of the email and send prior to the meeting Tuesday evening.

WATCH THE MEETING

Anyone can view the Council meeting live on Channels 14 and 881 or online at www.fcgov.com/fctv. **Note: Only individuals who wish to address Council should use the Zoom link or call in by phone. Anyone who wants to watch the meeting, but not address Council, should view the FCTV livestream.**

Documents to Share: *If residents wish to speak to a document or presentation, the City Clerk needs to be emailed those materials by 4 p.m. the day of the meeting.*

*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.*

Upon request, the City of Fort Collins will provide language access services for individuals who have limited English proficiency, or auxiliary aids and services for individuals with disabilities, to access City services, programs and activities. Contact 221-6515 (V/TDD: Dial 711 for Relay Colorado) for assistance. Please provide 48 hours advance notice when possible.

A solicitud, la Ciudad de Fort Collins proporcionará servicios de acceso a idiomas para personas que no dominan el idioma inglés, o ayudas y servicios auxiliares para personas con discapacidad, para que puedan acceder a los servicios, programas y actividades de la Ciudad. Para asistencia, llame al 221-6515 (V/TDD: Marque 711 para Relay Colorado). Por favor proporcione 48 horas de aviso previo cuando sea posible.

**Proclamations and Presentations
5:45 p.m.**

No Proclamations are scheduled.

Regular Meeting 6:00 p.m.

- **CALL MEETING TO ORDER**
- **PLEDGE OF ALLEGIANCE**
- **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. Consideration and Approval of the Minutes of the February 2, 2021 Regular meeting and the February 9, 2021 Adjourned meeting.

The purpose of this item is to approve the minutes from the February 2, 2021 Regular meeting and the February 9, 2021 Adjourned meeting.

2. Second Reading of Ordinance No. 029, 2021, Appropriating Unanticipated Philanthropic Revenue in the General Fund Received by City Give for Transfer to the Parks Department for Upgrades to Water's Way Park.

This Ordinance, unanimously adopted on First Reading on February 16, 2021, appropriates \$6,105 in philanthropic revenue in the General Fund and authorizes a transfer to the Parks Department for amenity upgrades to Water's Way Park as designated by the donors, friends and family of Willy Mergenthaler.

3. Items Related to Sales Tax and Lodging Tax Code Updates, the Elimination of the Utilities Refund Program, and an Exception to the Outdoor Vendor License Requirement.

A. Second Reading of Ordinance No. 030, 2021, Amending Certain Sections of Chapter 25 of the Code of the City of Fort Collins Relating to the Imposition, Collection and Enforcement of the City's Sales, Use and Lodging Taxes.

B. Second Reading of Ordinance No. 031, 2021, Amending Chapter 15 of the Code of the City of Fort Collins to Establish an Exception for Minor Businesses to the Outdoor Vendor License Requirement.

C. Second Reading of Ordinance No. 032, 2021, Amending Certain Sections of Chapter 26 of the Code of the City of Fort Collins Eliminating the Utility Refund Program.

These Ordinances, unanimously adopted on First Reading on February 16, 2021, amend City Code to eliminate rebate programs in accordance with the City's 2021 budget, to clarify certain existing provisions, to allow for notice to taxpayers by electronic mail, and to create an exception to the sales tax license and outdoor vendor license requirements for temporary commercial enterprises operated by minors.

4. Second Reading of Ordinance No. 033, 2021 Adopting the Housing Strategic Plan as an Element of the City's Comprehensive Plan.

This Ordinance, unanimously adopted on First Reading on February 16, 2021, adopts an update to the Housing Strategic Plan. The updated plan includes three changes identified at First Reading: (1) incorporates health care and childcare costs in the Introduction; (2) connects housing to other topics in the City's Legislative Policy Agenda policies more broadly; and (3) updates the assumptions contained in the "Ownership Affordability" graph on page 25 to be consistent with similar calculations in the appendix of the plan on page 113.

5. Second Reading of Ordinance No. 034, 2021, Appropriating Prior Year Reserves for Phase One of the Land Use Code Update to Reorganize the Land Use Code and Complete Housing Revisions as an Implementation Action Recommended in City Plan (2019) and the Housing Strategic Plan (2021).

This Ordinance, unanimously adopted on First Reading on February 16, 2021, requests an off-cycle general fund appropriation in the amount of \$290,000 for Phase 1 of the Land Use Code (LUC) update. This appropriation will enable staff to draft critical LUC changes and complete a code reorganization that will implement City Plan, implement the Housing Strategic Plan and a quicker win identified by the Ad Hoc Housing Committee, improve housing supply and affordability in Fort Collins, and consolidate, simplify, and increase the user-friendliness of the LUC. Project funding will be supplemented by \$60,000 of grant funds received for the Home2Health initiative for a total project budget of \$350,000. The Council Finance Committee reviewed this appropriation request at its January 25, 2021 meeting and indicated support for consideration by the full Council.

6. First Reading of Ordinance No. 035, 2021, Reappropriating Funds Previously Appropriated in 2020 But Not Expended and Not Encumbered in 2020.

The purpose of this item is to reappropriate monies in 2021 that were previously authorized by Council for expenditures in 2020 for various purposes. The authorized expenditures were not spent or could not be encumbered in 2020 because:

- There was not sufficient time to complete bidding in 2020 and therefore, there was no known vendor or binding contract as required to expend or encumber the monies; or
- The project for which the dollars were originally appropriated by Council could not be completed during 2020 and reappropriation of those dollars is necessary for completion of the project in 2021.

Additionally, there may have been sufficient unspent dollars previously appropriated in 2020 to carry on programs, services, and facility improvements in 2021 for those specific purposes.

In the above circumstances, the unexpended and/or unencumbered monies lapsed into individual fund balances at the end of 2020 and reflect no change in Council policies.

Monies reappropriated for each City fund by this Ordinance are as follows:

General Fund	\$912,543
Keep Fort Collins Great Fund	226,690
Cultural Services Fund	55,000
Wastewater Fund	35,000
Total	\$1,229,233

7. First Reading of Ordinance No. 036, 2021, Making a Supplemental Appropriation for Grants to Fort Collins Utilities Commercial Water Customers for Water Conservation Landscape Transformation Projects.

The purpose of this item is to appropriate unanticipated grant revenue in the amount of \$70,000 awarded by the United States Department of Interior, Bureau of Reclamation (" Reclamation") to the Fort Collins Utilities Water Conservation Division ("Water Conservation"). The funds will support commercial-scale waterwise landscape transformations through the Xeriscape Incentive Program (also known as "XIP"). Eligible participants of the program include but are not limited to homeowners' associations ("HOAs"), businesses, religious organizations, government entities, schools, and other Fort Collins Utilities commercial water customers.

8. First Reading of Ordinance No. 037, 2021, Appropriating Prior Year Reserves and Making Supplemental Appropriations for the Utilities Locating Department.

The purpose of this item is to provide supplemental resources in the 2021 budget for the Utilities Locating Department. Utilities has a regulatory obligation to fulfill underground facility locating requests within 48 hours of notification and the current volume of locating requests exceeds the normal capacity of Department resources. This appropriation will provide additional resources to contract for third party services to meet locating request obligations in 2021.

9. First Reading of Ordinance No. 038, 2021, Establishing Rental Rates and Delivery Charges for Use of Water Available Under Fort Collins Utilities' Raw Water Interests for 2021 Through March 2024.

The purpose of this item is to obtain Council approval for the proposed formulas for calculating rental rates and delivery charges for Fort Collins Utilities' (Utilities) raw water supplies for approximately three years, which includes proposed rental rates and delivery charges for fully consumable water. The rates and charges would be effective through March 2024, to address the gap between the end of 2023 and Council approval of new rates and charges in early 2024. Setting the rates and charges via formula ensures Utilities will recoup its costs for rented water while increasing the planning certainty for the water rental community.

Staff is recommending an increase in the rental rate for fully consumable water. This increase will only impact customers of our year-to-year leasing program. The increase reflects the cost of administering these rentals and is in line with market conditions for this type of water. This is the only significant change to the rental rates and delivery charges.

10. Items Relating to the South Timberline Improvement Project – Stetson Creek to Trilby.

- A. Resolution 2021-026 Approving an Intergovernmental Agreement with the Colorado Department of Transportation for the Timberline Improvements Project – Stetson Creek Road to Trilby Road.

- B. First Reading of Ordinance No. 039, 2021, Making Supplemental Appropriations and Appropriating Prior Year Reserves for the South Timberline Road Improvements Project - Stetson Creek Road to Trilby Road and Related Art in Public Places.

The purpose of this item is to enable the City to receive and use federal Surface Transportation Block Grant funds for the South Timberline Improvement Project - Stetson Creek to Trilby (the "Project"), to appropriate those funds and Transportation Capital Expansion Fee ("TCEF") Fund reserves to fully fund the Project, and to appropriate Transportation Services Fund reserves to satisfy the City's Art in Public Places program contribution requirements. This will authorize the Mayor to sign an intergovernmental agreement with the Colorado Department of Transportation ("CDOT") to receive and use the federal grant funds and will appropriate \$4,556,542 into the Capital Projects Fund for the Project. These funds will be used for the construction of roadway improvements along Timberline Road from Stetson Creek Drive to Trilby Road. Finally, a transfer of \$18,435 from the Project to the Cultural Services and Facilities Fund will be made for the required Art in Public Places program contribution.

11. Resolution 2021-027 Authorizing the City Manager to Execute an Agreement with the United States Fish and Wildlife Service to Fund a Temporary Position to Work on the Halligan Water Supply Project.

The purpose of this item is to approve an intergovernmental agreement (IGA) between the City of Fort Collins (City) and the United States Fish and Wildlife Service (USFWS) to fund a temporary position in the USFWS office to support work associated with the Endangered Species Act coordination for the Halligan Water Supply Project (Halligan Project or Project).

A critical step in the federal permitting process for the Halligan Project involves consultation with USFWS toward compliance with the Endangered Species Act to address potential impacts from the Halligan Project on federally threatened or listed species. The Halligan Project's point of contact at the USFWS is working under a contract position that will be defunded in March 2021. Defunding of this position could cause delays to the project and increased project costs due to inefficiencies. The IGA would enable the City to continue to fund the position to provide agency staff continuity and avoid further schedule delays due to the federal permitting process.

12. Public Hearing and Resolution 2021-028, Approving the Programs and Projects that will Receive COVID-19 Response and Recovery Funding from the Federal Community Development Block Grant Program.

The purpose of this item is to approve the projects and activities recommended for funding from the Community Development Block Grant (CDBG) funding in the amount of \$760,023 from the Department of Housing and Urban Development (HUD) to be used for COVID-19 response and recovery.

13. Resolution 2021-029 Making Appointments to the Parking Advisory Board of the City of Fort Collins.
The purpose of this Resolution is to make appointments to the Parking Advisory Board.

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. Staff Report: Cache la Poudre Instream Flow Project Update (staff: John Stokes, Eric Potyondy)

- **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. **If attending in person, 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.

14. Second Reading of Ordinance No. 028, 2021, Making Supplemental Appropriations for Year 2 of the Home2Health Project. (staff: Meaghan Overton; no presentation; 5 minute discussion)

This Ordinance, adopted on First Reading by a vote of 6-0 (Recused: Gorgol), completes the second and final appropriation of unanticipated grant revenue in the amount of \$363,513 awarded by the Colorado Department of Public Health and Environment (CDPHE) through its Health Disparities Grant Program (HDGP). In 2019, Fort Collins was awarded a reimbursable grant of \$795,657 from CDPHE to support the Home2Health initiative. The first appropriation of \$397,828 was approved on consent via Ordinance No. 090, 2019.

15. First Reading of Ordinance No. 027, 2021, Approving and Appropriating an Off-Cycle Funding Request Contingent on the Outcome of the April 6, 2021, Election, to Support Initial Implementation of Ordinance No. 026, 2021, Establishing Regulations Regarding Disposable Bags. (staff: Molly Saylor; 5 minute presentation; 45 minute discussion)

The purpose of this item is to consider adoption of an appropriation ordinance which provides \$87,500 in funding to support the initial 2021 roll-out of the Disposable Bag Ordinance and the Waste Reduction Program, including outreach and engagement and making free bags available to the community.

16. First Reading of Ordinance No. 040, 2021, Amending the Land Use Code Regarding Exterior Lighting. (staff: Kelly Smith, Cameron Gloss; 10 minute presentation; 45 minute discussion)

The purpose of this item is to approve changes to the exterior lighting standards in the City Land Use Code for new commercial and multi-family development projects. The goals of the update are to ensure adequate light levels for safety and commerce; update technical criteria to align with current industry metrics; better control the various aspects of light pollution (overlighting, glare, light trespass); and require contextually appropriate lighting plans that result in lower lighting in areas with lower nighttime activity (Natural Areas and residential areas), and higher lighting levels in areas with higher nighttime activity (Downtown and commercial corridors).

- **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.)

B. Consideration of a Motion to enter into an Executive Session to discuss legal issues related to the Hughes Property Citizen Initiative Declaratory Judgment Action and the *People v. Wiemold* appeal from Municipal Court concerning the City's camping ordinance.

"I move that the City Council go into executive session for the purpose of meeting with the City's attorneys and staff to discuss specific legal questions related to litigation regarding the Hughes Property Citizen Initiative Declaratory Judgment Action and the *People v. Wiemold* appeal from Municipal Court concerning the City's camping ordinance, as permitted under:

City Charter Article Roman Numeral Two, Section 11(2),
City Code Section 2-31(a)(2) and
Colorado Revised Statutes Section 24-6-402(4)(b)."

C. Possible Consideration of Motions to give direction to the City Attorney and the City Manager on whether to appeal the two lawsuits:

"I move the Council direct the City Attorney, in coordination with the City Manager, to appeal the District Court's decision in the Hughes Property Citizen Initiative Declaratory Judgment Action to the Colorado Court of Appeals as it pertains to the property acquisition requirement in the citizen-initiated ordinance."

Or

"I move the Council direct the City attorney to not appeal the District Court's decision in the Hughes Property Citizen Initiative Declaratory Judgment Action to the Colorado Court of Appeal."

And

"I move the Council direct the City Attorney to appeal the District Court's decision in the *People v. Wiemold* appeal from Municipal Court concerning the City's camping ordinance."

Or

"I move the Council direct the City Attorney not to appeal the District Court's decision the *People v. Wiemold* appeal from Municipal Court concerning the City's camping ordinance."

● **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.