

# City Council Meeting

COUNCIL CHAMBERS, 33 SOUTH MAIN STREET, COLFAX, CA

Mayor Trinity Burruss · Mayor Pro Tem Marnie Mendoza  
Councilmembers · David Ackerman · Kim Douglass · Sean Lomen

## REGULAR MEETING AGENDA

March 8, 2023

Regular Session: 6:00 PM

You may access the meeting and address the Council by any of the following means:

ZOOM at

<https://us02web.zoom.us/j/88273039943>

Dial in by calling one of the numbers listed below and enter the Webinar ID:

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1 (669) 900-6833

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Facebook Live on our City of Colfax page: City of Colfax, California. You may also submit written comments to the City Clerk via email at [city.clerk@colfax-ca.gov](mailto:city.clerk@colfax-ca.gov), via regular mail to P.O. Box 702, Colfax CA 95713, or by dropping them off at City Hall, 33 S. Main Street, Colfax CA 95713. Comments received will be submitted to Council and made a part of the record.

### 1 CLOSED SESSION (No Closed Session)

### 2 OPEN SESSION

- 2A. Call Open Session to Order
- 2B. Report from Closed Session
- 2C. Pledge of Allegiance
- 2D. Roll Call
- 2E. Approval of Agenda Order

*This is the time for changes to the agenda to be considered including removal, postponement, or change to the agenda sequence.*

**Recommended Action:** By motion, accept the agenda as presented or amended.

### 3 CONSENT CALENDAR

*Matters on the Consent Calendar are routine in nature and will be approved by one blanket motion with a Council vote. No discussion of these items ensues unless specific items are pulled for discussion and separate action. If you wish to have an item pulled from the Consent Agenda for discussion, please notify the Mayor.*

**Recommended Action:** Approve Consent Calendar

#### 3A. Minutes (Pages 4-5)

**Recommendation:** By Motion, approve the Colfax City Council minutes of 2/22/23.



Colfax City Council Meetings are ADA compliant. If you need disability-related modification or accommodation including auxiliary aids or services to participate in this meeting, please contact the City Clerk at (530) 346-2313 at least 72 hours prior to make arrangements for ensuring your accessibility.

**March 8, 2023**

4 **AGENCY REPORTS**

- 4A. **Placer County Sheriff's Office**
- 4B. **CHP**
- 4C. **Placer County Fire Department/CAL FIRE**
- 4D. **Non-Profits**

5 **PRESENTATION (No Presentation)**

6 **PUBLIC HEARING (No Public Hearing)**

7 **PUBLIC COMMENT**

*Members of the public are permitted to address the Council orally or in writing on matters of concern to the public within the subject matter jurisdiction of the City that are not listed on this agenda. Please make your comments as succinct as possible. Oral comments made at the meeting may not exceed five (5) minutes per speaker. Written comments should not exceed 800 words. Written comments received before the close of an agenda item may be read into the record, with a maximum allowance of five (5) minutes in length. Council cannot act on items not listed on this agenda but may briefly respond to statements made or questions posed, request clarification, refer the matter to staff, or place the matter on a future agenda.*

8 **COUNCIL AND STAFF**

*The purpose of these reports is to provide information to the Council and public on projects, programs, and issues discussed at committee meetings and other items of Colfax related information. No decisions will be made on these issues. If a member of the Council prefers formal action be taken on any committee reports or other information, the issue will be placed on a future Council meeting agenda.*

- 8A. **Committee Reports and Colfax Informational Items – All Councilmembers**
- 8B. **City Operations Update – City Manager**

9 **COUNCIL BUSINESS**

- 9A. **Mayor Pro Tem Mendoza Leave of Absence** (Page 6-8)  
**Recommendation:** Discuss and consider adopting Resolution \_\_-2023 permitting a medical leave of absence for Mayor Pro Tem Mendoza

10 **GOOD OF THE ORDER**

*Informal statements, observation reports and inquiries regarding the business of the City may be presented by Councilmembers under this agenda item or requests for placement of items of interest on a future agenda. No action will be taken.*

11 **ADJOURNMENT**



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I, Marguerite Bailey, City Clerk for the City of Colfax, declare that this agenda was posted in accordance with the Brown Act at Colfax City Hall and Colfax Post Office. The agenda is also available on the City website at <http://colfax-ca.gov/>

*Marguerite Bailey*

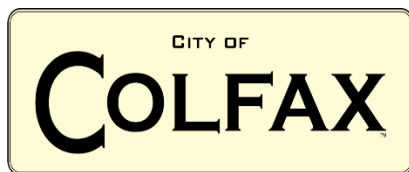
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Marguerite Bailey, City Clerk

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Administrative Remedies must be exhausted prior to action being initiated in a court of law. If you challenge City Council action in court, you may be limited to raising only those issues you or someone else raised at a public hearing described in this notice/agenda, or in written correspondence delivered to the City Clerk of the City of Colfax at, or prior to, said public hearing.





# City Council Minutes

Regular Meeting of Colfax City Council

Wednesday, February 22, 2023

City Hall Council Chambers, 33 S Main Street,

Colfax CA and attended via Teleconference through ZOOM

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1 **CLOSED SESSION** (No Closed Session)

2 **OPEN SESSION**

2A. **Call Open Session to Order** - Mayor Burruss called the open session to order at 6:01pm

2B. **Report from Closed Session** – No Closed Session

2C. **Pledge of Allegiance**

2D. **Roll Call**

Present: Councilmember Lomen, Councilmember Ackerman, Councilmember Douglass, and Mayor Burruss

Absent: Mayor Pro Tem Mendoza

2E. **Approval of the Agenda Order**

By **MOTION**, accept the agenda as presented.

**MOTION** made by Councilmember Ackerman and seconded by Councilmember Lomen, and approved unanimously.

3 **CONSENT CALENDAR**

3A. **Cash Summary – January 2023**

**Recommendation:** Accept and File.

3B. **Minutes**

**Recommendation:** By Motion, approve the Colfax City Council minutes of 2/8/2023.

3C. **Portable Changeable Message Signs – VER-MAC**

**Recommendation:** Adopt Resolution \_\_-2023 authorizing the City Manager to execute a purchase agreement with VER-MAC for two Portable Changeable Message Signs, with a not to exceed amount of \$35,920.

3D. **Fiscal Year 2022-2023 Mid-Year Operating Budget Review**

**Recommendation:** Review fiscal year 2022-2023 mid-year budget report and approve budget amendments.

By **MOTION**, approve the consent calendar.

**MOTION** made by Councilmember Lomen and seconded by Councilmember Ackerman, and unanimously approved.

4 **AGENCY REPORTS**

4A. **Placer County Sheriff's Office** – Sergeant Griffiths discussed the importance of calling into dispatch to report problems as they are occurring in the City.

4B. **CHP** – Public Information Officer Lyman spoke about weather and traffic concerns during weather incidents.

4C. **Placer County Fire/CALFIRE** – Assistant Chief Bob Counts spoke about opening up the EOC, and preparations for the inclement weather as well as other projects.

4D. **Non-Profits** – Nothing to report from Non-Profits.

5 **PRESENTATION (No Presentation)**7 **PUBLIC COMMENT**

Tim Ryan asked if the downtown power grid generator could be utilized for the upcoming storm. Mayor Burruss explained that obstacles such as an unpredictable storm pattern make it impossible to use in these circumstances.

8 **COUNCIL AND STAFF**8A. **Committee Reports and Colfax Informational Items – All Councilmembers –**

Councilmember Douglass said that he attended the Caltrans Open House Meeting on Tuesday night and that there were some positive improvements coming that would be beneficial for the area. Mayor Burruss asked private homeowners associations and private road owners to make plans for keeping the roadways safe during the upcoming storms.

8B. **City Operations Update – City Manager**

City Manager Heathcock had nothing to report.

9 **COUNCIL BUSINESS**9A. **Review Colfax Municipal Code Chapter 5.32 (Commercial Cannabis Activity) for legal compliance and provide direction to staff.**

**Presentation by:** Alfred A. “Mick” Cabral, City Attorney.

**Recommendation:** Review the current commercial cannabis activity and provide staff direction.

The following community members spoke in favor of allowing commercial cannabis activity: Tim Dion, Jim Dion, Nickolas Dion. The following community members spoke in opposition of changing the current cannabis licensing: PCSO Lt Stacy Renegar, CHP Lt. Frank Newman, Donald Mackintosh, Diane Greene, Neil Nedley, Melinda Neely, Amanda Anguish, Simone Forinholt, Abigail Hess, E’noa Duga Duga, Sgt. Kevin Griffiths, Lisa Winstead, Tiegan, Mary Ann Krugar, Tim Richter, Susan Kirchhoff, and Shelley Kanomata,

Staff presented the finding that the current commercial cannabis ordinance is compliant with State law. Council discussed the proposal of allowing adult-use commercial cannabis sales. Mayor Burruss was supportive of the idea. Councilmembers Lomen, Ackerman and Douglass were in favor of keeping the current cannabis licensing the same, which is medicinal-use only.

10 **GOOD OF THE ORDER**

Councilmember Douglass explained that he experienced some traffic issues at the roundabout on President’s Day weekend and passed along his concerns to Caltrans.

11 **ADJOURNMENT**

As there was no further business on the agenda, Mayor Burruss adjourned the meeting, by motion and without objection at 7:01 pm. Respectfully submitted to City Council this 8<sup>th</sup> day of March, 2023.

*Marguerite Bailey*

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Marguerite Bailey, City Clerk



# Staff Report to City Council

## FOR THE MARCH 8, 2023, REGULAR CITY COUNCIL MEETING

**From:** Wes Heathcock, City Manager  
**Prepared by:** Wes Heathcock, City Manager  
 Alfred A. “Mick” Cabral, City Attorney  
**Subject:** Mayor Pro Tem Mendoza Leave of Absence

*Budget Impact Overview:*

<b>N/A:</b> ✓	<b>Funded:</b>	<b>Un-funded:</b>	<b>Amount:</b>	<b>Fund(s):</b>
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**RECOMMENDED ACTION:** Discuss and consider adopting Resolution \_\_-2023 permitting a medical leave of absence for Mayor Pro Tem Mendoza

### Summary/Background

On February 14, 2023, Mayor Pro Tem Mendoza notified City staff that her treating physician placed her on a medical leave of absence for approximately six weeks. Mayor Pro Tem Mendoza timely notified the City of this circumstance and seeks the Council’s permission for a leave of absence. The proposed resolution, if adopted, will grant permission for that leave of absence and prevent her office from being declared vacant.

There are three separate and somewhat inconsistent legal provisions that address a Councilmember’s absence:

(1) Colfax Municipal Code Section 2.04.020 provides:

“If a city councilmember is absent without permission from all regular city council meetings for sixty (60) days consecutively from the last regular meeting he or she attended, his or her office becomes vacant and shall be filled as any other vacancy.

When a councilmember knows that he/she will be absent from a regularly scheduled meeting, the councilmember shall so advise the council during a regular meeting or shall call the mayor or the city manager and so advise. During roll call at the missed meeting, the mayor or city manager will advise the council of the absence and it will be noted in the minutes as an excused absence unless a determination is otherwise made.”

(2) California Government Code Section 36513(a) provides, “(a) If a city councilmember is absent without permission from all regular city council meetings for 60 days consecutively from the last regular meeting he or she attended, his or her office becomes vacant and shall be filled as any other vacancy.”

(3) California Government Code Section 1770 provides, “An office becomes vacant on the happening of any of the following events before the expiration of the term:… (g) His or her ceasing to discharge the duties of his or her office for the period of three consecutive months, except when prevented by sickness, or when absent from the state with the permission required by law.”

Mayor Pro Tem Mendoza’s physician placed her on medical leave for six weeks, so she meets the “...except when prevented by sickness...” exception in Government Code Section 1770. The question turns on whether she also needs the Council’s express permission or whether that permission is implied by CMC Section 2.04.020.

It is not clear what constitutes “permission” as required by Government Code Section 36513(a). CMC Section 2.04.020 assumes that an absence will be “excused” unless a “determination”, presumably by the Council, is

otherwise made. This can be interpreted to mean that permission for a leave of absence is assumed because the absence is excused unless the Council determines otherwise. However, “permission” also implies an affirmative act by the Council; permission ordinarily must be requested and granted. It is preferable for the Council to expressly grant or deny permission for the leave of absence in order to avoid any ambiguity.

The most recent regular meeting Mayor Pro Tem Mendoza attended was on January 25. There is no record that the City was advised in advance that she would not attend the February 8 meeting, so that absence is presumed to be unexcused. This means that the sixty-day period in Government Code Section 36513(a) and CMC 2.04.020 likely begins January 25, 2023, and expires on March 26, 2023. The attached Resolution approves the leave beginning February 22 and ending April 12, which is the first regularly scheduled meeting in April.

The offices of Mayor and Mayor Pro Tem are typically filled annually. The Council, by majority vote, has the authority to appoint a replacement of the Mayor Pro Tem on a permanent or interim basis. Mayor Pro Tem Mendoza’s absence effectively leaves that office vacant for the duration of her leave. The Council should discuss and consider appointing one of its members to serve on an interim basis beginning March 8, 2023, and ending when Mayor Pro Tem Mendoza resumes her official duties. The selection of which member of the Council should serve in that role is within Council’s sole discretion.

Staff will be available to answer any questions.

**Fiscal Impacts**

None of significance.

**Attachments:**

Resolution \_\_-2023

# City of Colfax City Council

## Resolution No. \_\_-2023

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### APPROVING A MEDICAL LEAVE OF ABSENCE FOR MAYOR PRO TEM MENDOZA

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**WHEREAS**, Mayor Pro Tem Mendoza has been placed on a medical leave of absence by her treating physician; and

**WHEREAS**, Mayor Pro Tem Mendoza timely notified the City of this circumstance and asked the Council to grant permission for the leave of absence so her office on the City Council does not inadvertently become vacant; and

**WHEREAS**, it is in the best interests of the City of Colfax for the Council to grant its permission for Mayor Pro Tem Mendoza’s requested leave of absence and to appoint an interim Mayor Pro Tem during that interval.

**NOW THEREFORE, BE IT RESOLVED BY** the City Council of the City of Colfax as follows:

1. Mayor Pro Tem Mendoza’s requested leave of absence is approved beginning February 22, 2023 and ending on April 12, 2023 or when Mayor Pro Tem Mendoza resumes her duties as such, whichever is earlier. The Council reserves the right to modify the duration of the approved leave of absence.
2. Councilmember \_\_\_\_\_ shall serve as Mayor Pro Tem while Mayor Pro Tem Mendoza remains on medical leave.

**THE FOREGOING RESOLUTION WAS DULY AND REGULARLY ADOPTED** at a regular meeting of the City Council of the City of Colfax held on the 8th of March 2023 by the following vote of the Council:

**AYES:**  
**NOES:**  
**ABSTAIN:**  
**ABSENT:**

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**Trinity Burruss, Mayor**

**ATTEST:**

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**Marguerite Bailey, City Clerk**