

June 7, 2016

**COUNCIL OF THE CITY OF FORT COLLINS, COLORADO**

**Council-Manager Form of Government**

**Regular Meeting – 6:00 PM**

● **ROLL CALL**

PRESENT: Martinez, Stephens, Overbeck, Campana, Cunniff, Horak

ABSENT: Troxell

Staff Present: Atteberry, Daggett, Winkelmann

● **AGENDA REVIEW: CITY MANAGER**

City Manager Atteberry stated there were no changes to the published agenda and noted the request to postpone Item No. 16, *Second Reading of Ordinance No. 073, 2016, Authorizing the Acquisition by Eminent Domain of Additional Lands Necessary to Construct Public Improvements as Part of the Prospect Road and College Avenue Intersection Improvements Project*, to July 5.

Natalie Schusberry pulled Item #8 *Second Reading of Ordinance No. 070, Amending the Zoning Map of the City of Fort Collins and Classifying for Zoning Purposes the Property Included in the Mountain's Edge Annexation to the City of Fort Collins, Colorado* from the Consent Calendar.

● **CITIZEN PARTICIPATION**

Aislinn Kottwitz commended the Healthcare Decision Day proclamation.

Mike Pruznick discussed Poudre School District maintenance issues and expressed concern regarding jobs and tax revenue leaving Fort Collins for Timnath and other communities.

Peggy Budai, Sharing the Care Campaign, commended the Healthcare Decision Day proclamation and discussed the importance of advanced directives.

Carol Miller commented on processes throughout the City regarding staff presentations and transparency. She requested full budget numbers be presented.

Deb (no last name given) opposed the fee for manual meter reading of the City's Smart Meters. She requested Council consider an option for individuals to call in meter readings as has been allowed in the past.

Lynn Barker commended the downtown flowers and discussed the installation of a camera between the Rescue Mission and Catholic Charities. She requested the public restroom near the area be opened.

Ashley Boothe, Fort Collins Cat Rescue, thanked the City for its Adopt a Shelter Cat proclamation.

Deborah James discussed homelessness and the difficulties of finding trashcans and restrooms.

Arthur Edward Coon, Pastor, discussed salaries of City employees and stated marijuana tax laws have been misleading. He witnessed a police officer sitting in his vehicle with the air conditioner running for two hours. He suggested a low-income community be built with an education center.

● **CITIZEN PARTICIPATION FOLLOW-UP**

Councilmember Stephens thanked Ms. Kottwitz and Ms. Budai for their work with the Sharing the Care program and commended the work of the Cat Rescue with the Community Pets Project. She stated she will call Deb regarding her utilities questions.

Councilmember Overbeck agreed with Mr. Coon's comments supporting education efforts and dealing with homeless issues.

Councilmember Cunniff noted the marijuana laws mentioned by Mr. Coon are state laws and asked if Plan Fort Collins revisions are forthcoming. City Manager Atteberry replied Council has the option to approve funding for an update to City Plan in the 2017-2018 budget.

Mayor Pro Tem Horak noted the homelessness issue is a community issue which cannot be solely addressed by the City.

● **CONSENT CALENDAR**

Councilmember Cunniff made a motion, seconded by Councilmember Overbeck, to approve and adopt all items not withdrawn from the Consent Calendar.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Ross Cunniff, District 5
<b>SECONDER:</b>	Bob Overbeck, District 1
<b>AYES:</b>	Martinez, Stephens, Overbeck, Campana, Cunniff, Horak
<b>ABSENT:</b>	Troxell

1. **Consideration and Approval of the Minutes of the May 3 and May 17, 2016 Regular Council Meetings, the May 10, 2016 Special Council Meeting and the May 24, 2016 Adjourned Council Meeting. (Adopted)**

The purpose of this item is to approve minutes from the May 3 and May 17, 2016 Regular Council meetings, the May 10, 2016 Special Council meeting and the May 24, 2016 Adjourned Council meeting.

2. **Second Reading of Ordinance No. 061, 2016 Appropriating Prior Year Reserves in the Natural Areas Fund for the Purpose of Land Conservation, Public Improvements and Related Natural Areas Programming not Included in the 2016 Adopted City Budget. (Adopted)**

This Ordinance, unanimously adopted on First Reading on May 17, 2016, appropriates \$9,598,100 in prior year reserves and unanticipated revenues in the Natural Areas Fund for the purpose of land conservation, construction of public improvements, restoration of wildlife habitat and other Natural Areas Department programs to benefit the citizens of Fort Collins.

3. **Items Relating to the Completion of the 2016 Spring Cycle of the Competitive Process for Allocating City Financial Resources to Affordable Housing and Community Development Activities Utilizing Funds from the Federal Community Development Block Grant (CDBG) Program, Federal HOME Investment Partnerships (HOME) Program the City's Affordable Housing Fund (AHF) and the City's Human Services Program (HSP). (Adopted)**

- A. Second Reading of Ordinance No. 062, 2016, Appropriating Unanticipated Revenue in the Community Development Block Grant Fund.
- B. Second Reading of Ordinance No. 063, 2016, Appropriating Unanticipated Revenue in the HOME Investments Partnerships Fund.

These Ordinances, unanimously adopted on First Reading on May, 17, 2016, approve funding recommendations of the 2016 spring cycle of the Competitive Process and appropriate federal dollars. Ordinance No. 062, 2016 appropriates the City's FY2016 CDBG Entitlement Grant from the Department of Housing and Urban Development (HUD), and CDBG unprogrammed funds and Program Income from FY2015 and FY2014. Ordinance No. 063, 2016, appropriates the City's FY2016 HOME Participating Jurisdiction (PJ) Grant from HUD and HOME Program Income from FY 2015 and FY 2014.

4. **Items Relating to Updating the Code of the City of Fort Collins Pertaining to Unclaimed and Abandoned Intangible Personal Property. (Adopted)**

- A. Second Reading of Ordinance No. 064, 2016, Amending Section 23-130 of the Code of the City of Fort Collins and Adding a Division 4 to Article IV in City Code Chapter 23 to Provide New Procedures for the City's Disposition of Unclaimed and Abandoned Intangible Personal Property.
- B. Second Reading of Ordinance No. 065, 2016, Codifying the Utilities Payment Assistance Program and Amending Chapter 26 of the Code of the City of Fort Collins to Authorize Expenditure of Amounts Donated to the Program and Forfeited Unclaimed and Abandoned Intangible Personal Property Held by the Utilities Pursuant to Division 4, Article IV of Chapter 23 of the Code.

These Ordinances, unanimously adopted on First Reading on May 17, 2016, update City Code for the processing of unclaimed and abandoned intangible personal property owned by others that is in the City's possession for various reasons. State law authorizes local governments to have formal procedures in place in order to assume ownership of unclaimed and abandoned intangible personal property. Alternatively, the City would have to turn the property over to the State of Colorado. Existing City Code Section 23-130 has provided these formal procedures but needs updating. On April 18, 2016, the Council Finance Committee reviewed the proposed changes and recommended that this item be presented to the City Council for consideration. However, since the Committee reviewed these changes as found in Ordinance No. 064, 2016, this Ordinance has been revised to clarify how intangible property coming into the City's possession through law enforcement activities or as lost and found property will be disposed of under the Ordinance. Proposed changes to Chapter 26-Utilities are also included to recognize how unclaimed funds from the utility enterprises will be managed once they are declared forfeited under Chapter 23. Ordinance No. 065, 2016, amending Chapter 26 provides that such unclaimed and forfeited utilities funds are directed to the Payment Assistance Program.

5. **Second Reading of Ordinance No. 066, 2016, Repealing the Electric Service Rules and Regulations, Amending and Codifying Certain Provisions Formerly in the Electric Service Rules and Regulations, Amending and Renaming the Electric Construction Policies Practices and Procedures as the Electric Service Standards, and Making Certain Clarifying Amendments in Chapter 26 of the Code of the City of Fort Collins and the Electric Service Standards. (Adopted)**

This Ordinance, unanimously adopted on First Reading on May 17, 2016, clarifies and consolidates policy and construction standards applicable to development of the City's electric network.

6. **Items Relating to Amendment of the Airport Intergovernmental Agreement Recommended by the Northern Colorado Regional Airport Commission. (Adopted)**

- A. Second Reading of Ordinance No.067, 2016, Approving the First Amendment to the Amended and Restated Intergovernmental Agreement for the Joint Operation of the Fort Collins-Loveland Municipal Airport, to be Known Henceforth as the Northern Colorado Regional Airport, and Ratification of Previous Actions.
- B. Second Reading of Ordinance No. 068, 2016, Amending Various Sections of the Code of the City of Fort Collins Relating to the Delegation of Authority to the Northern Colorado Regional Airport Commission and Change of the Name of the Fort Collins-Loveland Municipal Airport to the Northern Colorado Regional Airport.

These Ordinances, unanimously adopted on First Reading on May 17, 2016, amend the Amended and Restated Intergovernmental Agreement (IGA) for the joint operation of the Northern Colorado Regional Airport. Ordinance No. 067, 2016, ratifies and reaffirms the approval of the IGA and creation of the Commission under the IGA by Resolution 2015-003 to comply with Article IV, Section 1 of the City Charter and actions taken by the Commission, its officers and members with respect to operation and management of the Airport pursuant to and within the scope of the IGA. Ordinance No.068, 2016, amends the City Code to address the impact the First Amendment has on the delegated authority with respect to Airport leases, grants, and expenditures. In addition, the change of the Airport name necessitates amendments to other provisions of the City Code to reflect that change.

7. **Second Reading of Ordinance No. 069, 2016, Annexing the Property Known as the Mountain's Edge Annexation to the City of Fort Collins, Colorado. (Adopted)**

This Ordinance unanimously adopted on First Reading on May 17, 2016 annexes 18.52 acres located at 2430 South Overland Trail at the northeast corner South Overland Trail and West Drake Road. A related item to zone the annexed property is presented as the next item on the agenda.

8. **Second Reading of Ordinance No. 071, 2016, Annexing the Property Known as the East Prospect at Boxelder Creek Annexation to the City of Fort Collins, Colorado. (Adopted)**

This Ordinance, adopted unanimously on First Reading on May 17, 2016, annexes a segment of East Prospect Road right-of-way. The request is related to a City Utilities and Engineering project to improve the Boxelder Creek crossing of the road for flood management purposes. The segment is located east of Summitview Drive, west of the Interstate 25 frontage road and is approximately 1,000 feet in length.

9. **Second Reading of Ordinance No. 072, 2016, Amending the Zoning Map of the City of Fort Collins and Classifying for Zoning Purposes the Property Included in the East Prospect at Boxelder Creek Annexation to the City of Fort Collins. (Adopted)**

This Ordinance, unanimously adopted on First Reading on May 17, 2016, zones the property included in the East Prospect at Boxelder Creek Annexation as a mix of Urban Estate (UE) and Employment (E).

This item is a quasi-judicial matter and if it is considered on the discussion agenda it will be considered in accordance with the procedures described in Section 1(d) of the Council's Rules of Meeting Procedures adopted in Resolution 2015-091.

10. **First Reading of Ordinance No. 075, 2016, Appropriating Unanticipated Grant Revenue in the Transportation Services Fund for the Safe Routes to School Program. (Adopted)**

The purpose of this item is appropriate unbudgeted funds received through a grant for the Safe Routes to School (SRTS) program (part of the City's FC Moves Department). The Colorado

Department of Transportation (CDOT) has awarded a \$12,960 grant for implementation of new bicycling and walking camps, clubs and field trips at Fort Collins schools. This project requires a 20% local match (\$3,240), which will be covered by the SRTS program operating budget.

11. **First Reading of Ordinance No. 076, 2016, Authorizing the Conveyance of an Access Easement on Topminnow Natural Area to Jerome B. And Darla J. Roselle in Exchange for the Vacation of an Existing Access Easement. (Adopted)**

The purpose of this item is to authorize conveyance of an access easement to Jerry and Darla Roselle ("Roselles") in exchange for an easement from the Roselles, with the consent of the North Poudre Irrigation Company, across the Fossil Creek Inlet Ditch Road on Topminnow Natural Area and the Roselles' property. Both properties are bounded by the Fossil Creek Inlet Ditch. The Natural Areas Department is in the process of acquiring 5-plus acres of land from the Roselles to add to Topminnow Natural Area. The Roselles intend to retain a small parcel of land east of the Ditch necessitating the need for an access easement. The best physical access is across the Fossil Creek Inlet Ditch Road, which is maintained by North Poudre Irrigation Company within easements it owns on the City and Roselle properties. The parties have proposed to enter into a reciprocal access easement which will formalize the access rights and obligations for each party on the ditch road. The Roselles have also agreed to vacate an existing access easement on the east side of the natural area.

12. **Resolution 2016-046 Finding Substantial Compliance and Initiating Annexation Proceedings for the Majestic Place Annexation. (Adopted)**

The purpose of this item is initiate annexation proceedings for the Majestic Place property. The applicant, Suburban Land Reserve Inc. c/o Mr. Kenneth Merritt, has submitted a written petition requesting annexation of 19.93 acres located at 2150 Rock Castle Lane (southeast of Timberline Road and Trilby Road) which is presently vacant. The requested zoning for this annexation is Urban Estate, U-E. In accordance with the Intergovernmental Agreement for the Fort Collins Growth Management Area with Larimer County, the City of Fort Collins agrees to annex land that meets the minimum contiguity requirement, and based on a voluntary petition to annex for the purpose of redeveloping the subject parcel.

This annexation request is in conformance with the State of Colorado Revised Statutes as they relate to annexations, the City of Fort Collins Comprehensive Plan, and the Larimer County and City of Fort Collins Intergovernmental Agreements.

13. **Resolution 2016-047 Appointing Nancy Luttrupp to the Senior Advisory Board. (Adopted)**

The purpose of this item is to appoint Nancy Luttrupp to the Senior Advisory Board to fill a board vacancy created through the resignation of Lawrence Bontempo.

- END CONSENT
- STAFF REPORTS

Jan Sawyer, Special Events Coordinator, discussed the history of the City's special event permitting process and the need for a single point of contact as the number and size of events has increased. For 2016, staff is working on issues regarding amplified sound, monitoring and regulation of events, and enhanced communication.

Councilmember Martinez asked when special events permit applications will be available online. Sawyer stated the City is hoping to have an online program in place for the 2017 special events season.

Mike Trombley, Deputy Police Chief, provided an overview of fireworks outreach and enforcement, acknowledging that enforcement is only one component of addressing problems; education and outreach are also significant components.

Kevin Cronin, Police Lieutenant, discussed fireworks protocol enforcement week efforts by Police Services and PFA and detailed changes this year which involve a social media campaign, magnetic signs on government vehicles, and other significant outreach throughout the city.

Councilmember Cunniff supported the efforts detailed by Cronin.

Councilmember Stephens asked about fireworks sales in the County. Cronin replied specific locations are not regulated; as long as vendors find a location within the County, the City cannot stop those sales. In the County, the only legal fireworks are those allowed by the State of Colorado.

Mayor Pro Tem Horak requested additional information about the problem. Trombley replied the problem revolves around the number of complaints and quality of life issues.

● **COUNCILMEMBER REPORTS**

Councilmember Martinez requested a report on railroad crossing repairs. Rick Richter, Infrastructure Services Director, stated the City has been working with the railroad regarding the Lemay and Riverside crossing to get a contract approved in order to schedule the work. It is likely the repairs will occur in mid-July; however, the repairs will require a full intersection closure for three days. A full outreach plan will occur once the railroad commits to a date.

Councilmember Overbeck reported on the Poudre River Fest and announced the 2016 National ADA conference in Denver, encouraging members of the Human Relations Commission and Commission on Disability to look at the topics.

Councilmember Stephens reported on the Child Safe Walk and a tour of Crossroads Safe House. She commended the work of non-profits in the community.

Councilmember Martinez reported on a tour of the jail and commented on its overcrowding issues. He reported on a ladybug release at Jessup Farm.

Councilmember Campana reported on the Open Streets event on Corbett Drive, commending the work of staff.

Mayor Pro Tem Horak reported on the ribbon cutting for the new climbing lane on I-25 near Berthoud. He discussed the resignation of the Platte River Power Authority General Manager and the process for replacing that position, noting the process was not supported by himself or the Mayor. He reported on the regional Water Collaboration Workshop.

Councilmember Cunniff commented on the Platte River Power Authority appointment process. Mayor Pro Tem Horak noted the Authority did not break any of its rules or charters; however, the process was deemed inappropriate by Fort Collins representatives.

Councilmember Martinez agreed the process could be improved.

● **DISCUSSION ITEMS**

14. **Second Reading of Ordinance No. 055, 2016, Amending the City of Fort Collins District-Precinct Map. (Adopted on Second Reading)**

*This Ordinance, adopted on First Reading on May 3, 2016, by a vote of 6-1 (Nays: Overbeck) amends the City of Fort Collins District-Precinct Map to (1) align the City precinct boundaries with the County precinct boundaries, which were amended in May 2015; and (2) adjust Council district boundaries to achieve a required population deviation between the most populous district and the least populous district. The district boundaries were last adjusted in August 2012.*

City Clerk Wanda Winkelmann stated Larimer County has revised its precinct boundaries and the population deviation between Council districts is now greater than 20%, which is not consistent with the Charter and City Code. To comply, the boundaries between Council districts need to be amended.

City Attorney Daggett reviewed the Charter provision describing particular characteristics necessary for the city's Council districts.

Marcus Bodig, GIS Department, described the process used to determine the City's population and goals for changing districts to meet the necessary deviation.

Mike Pruznick expressed concern regarding the changes resulting in his inability to run for office or vote in the next election and expressed concern regarding the deviation not going below 6%. Preserving the right to vote for residents should be the top priority.

Eric Sutherland commented on his race for County Commissioner and stated the City does not handle elections well. He opposed the redistricting option approved on First Reading.

Councilmember Cunniff commented on the option that would move some precincts now and some after the election and asked about the deviation using that option. Bodig replied that option results in approximately a 30% deviation.

Councilmember Cunniff noted the Charter will not allow such a deviation and stated the 30% deviation is not reasonable.

Councilmember Stephens asked how this information will be communicated to citizens. Chief Deputy City Clerk Rita Knoll replied anyone in an affected precinct will be notified by letter.

Councilmember Martinez made a motion, seconded by Councilmember Cunniff, to adopt Ordinance No. 055, 2016, Option 1, on Second Reading as amended with an effective date of June 17, 2016.

Councilmember Overbeck stated he supported Option 4 as it moved the fewest number of precincts.

<b>RESULT:</b>	<b>ORDINANCE NO. 055, 2016, ADOPTED ON SECOND READING [5 TO 1]</b>
<b>MOVER:</b>	Ray Martinez, District 2
<b>SECONDER:</b>	Ross Cunniff, District 5
<b>AYES:</b>	Martinez, Stephens, Campana, Cunniff, Horak
<b>NAYS:</b>	Overbeck
<b>ABSENT:</b>	Troxell

15. **Second Reading of Ordinance No. 073, 2016, Authorizing the Acquisition by Eminent Domain of Additional Lands Necessary to Construct Public Improvements as Part of the Prospect Road and College Avenue Intersection Improvements Project. (Postponed to July 5, 2016)**

*Staff requests postponement of Second Reading of Ordinance No. 073, 2016, to July 5, 2016, to allow staff time to review a suggested amendment to the design approved on First Reading. This Ordinance obtains authorization from City Council to use eminent domain, if necessary, to acquire property interests needed to construct improvements to the intersection of Prospect Road and College Avenue. This authorization is for the two residential properties at the east end of the project. The Ordinance was adopted on First Reading on May 17, 2016 by a vote of 5-2 (Nays: Overbeck, Cunniff).*

Eric Sutherland stated a process needs to be in place regarding erroneous statements by staff and discussed ownership records for City-owned properties.

Kevin Harper discussed the dramatic impact this has had on the lives of his family and thanked Council for considering an alternative plan for the intersection.

Carol Miller thanked Councilmember Cunniff for his development of an alternative plan but opposed the construction happening on Prospect Road as no large-scale plan exists for the corridor and the fact that old 3-foot sidewalks are being replaced with new 3-foot sidewalks, which do not meet ADA standards.

Councilmember Overbeck requested follow-up regarding Ms. Miller's comments. Rick Richter, Infrastructure Services Director, replied some street maintenance work and storm sewer installation is being completed along Prospect. In terms of the sidewalk, some damaged curb and gutter sections are being replaced. The future widening of the sidewalk is not precluded by this project.

Councilmember Cunniff asked if there is any Council interest in directing staff to develop a workable plan that includes some or all of the components outlined in his alternative plan. The specific changes would be to eliminate the left turn at Remington, to change all but the curb-most lane widths on westbound Prospect to be ten feet instead of eleven, and to adjust the sidewalk width next to the 1535 Remington property. These changes may require a lower design speed; however, staff has expressed the desire to keep the 35 mile per hour design speed.

Councilmember Campana stated he cannot support an alternative plan which compromises safety and/or standards and specifically opposed a plan which would eliminate the left turn lane.

Councilmember Cunniff replied a lower speed design standard would not compromise safety.

Councilmember Overbeck supported looking at an alternative proposal.



Councilmember Campana stated he is willing to support the postponement recommendation in order to allow additional time for evaluation.

City Manager Atteberry expressed concern regarding the timeline and proposed alternative plan. He stated it will be examined; however, at this point, it is not a design that can be supported by staff.

Councilmember Cunniff made a motion, seconded by Councilmember Overbeck, to postpone consideration of Second Reading of Ordinance No. 073, 2016, to the July 5, 2016 regular Council meeting.

<b>RESULT:</b>	<b>ORDINANCE NO. 073, 2016, POSTPONED TO JULY 5, 2016 [UNANIMOUS]</b>
<b>MOVER:</b>	Ross Cunniff, District 5
<b>SECONDER:</b>	Bob Overbeck, District 1
<b>AYES:</b>	Martinez, Stephens, Overbeck, Campana, Cunniff, Horak
<b>ABSENT:</b>	Troxell

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

16. **Second Reading of Ordinance No. 074, 2016, Modifying the April 7, 2016, Planning and Zoning Board Decision Approving the Major Amendment to The Centre For Advanced Technology 22nd Filing, Community Horticulture Center #MJA 150006 Pertaining To The Gardens On Spring Creek With Conditions. (Adopted as Amended on Second R)**

*This Ordinance, unanimously adopted on First Reading on May 17, 2016, amends the Planning and Zoning Board decision regarding the Gardens on Spring Creek Master Plan Amendment. The final Council-adopted modification regarding Council review and possible revision to the limit on the number of events at the new facilities has been revised to clarify that Council approval of such an increase, if any, would be by resolution.*

*Staff is also proposing alternative sound wall configurations for Council consideration.*

Cameron Gloss, Planning Manager, discussed the various options relating to sound walls and the noise ordinance and introduced a new hybrid option which combines options B and C. It would eliminate the west wall and extend the southwest wall. Staff is recommending option B, which would shorten the west wall and extend the interior southwest wall.

Eric Sutherland expressed concern the City is making promises that it will not keep and suggested parameters regarding property use should be codified.

Barbara Albert requested the removal of the language regarding an increase in the number of concerts and questioned how parking for 1,500 concertgoers will be accommodated. She stated her neighborhood has no recourse if the City breaks its own rules and noted option D was not on the website.

Cory Albert supported the Gardens and supported option B as the best option to mitigate noise from the concert venue.

Councilmember Campana stated he is responsible for option D which was intended to be a compromise between what the neighborhood was requesting and the operation of the Gardens.

Councilmember Cunniff noted the Ordinance currently directs staff to continue to look at sound wall options. City Attorney Daggett stated the Ordinance as adopted on First Reading, did not select an option for the walls.

City Attorney Daggett discussed the language of the Ordinance.

Councilmember Campana made a motion, seconded by Councilmember Martinez, to adopt Ordinance No. 074, 2016, on Second Reading, including the proposed changes and changing the language that would allow Council to adjust the number of events per year to be completed by Ordinance rather than Resolution.

Mayor Pro Tem Horak requested a description of the changes as proposed. Councilmember Campana replied neighbors would prefer option B and this language would approve that option; however, if evaluation over the next 120 days results in the willingness of Council to grant a decibel level variance, the wall would not be installed.

Councilmember Cunniff stated he could not support the motion as the City should abide by its own ordinances.

Councilmember Campana noted noise variances are granted on projects throughout the city and supported the option as a good compromise.

Councilmember Cunniff replied this is a City project on City-owned property and the City should be held to a higher standard and abide by its own ordinances.

Councilmember Campana requested information regarding noise level variances on other projects. Jan Sawyer, Special Events Coordinator, replied all permitted outdoor events with amplified sound are required to submit a noise variance application.

Councilmember Overbeck stated he would not support option D given the lack of public process; however, he appreciated the efforts at compromise.

Gloss stated option D will involve a lesser impact to concert-goers by lowering the height and size of walls internal to the site and will also reduce the sound level to the west. Option B, as recommended by staff, does include the sound wall to meet the noise ordinance while also providing a positive experience for concert-goers.

Mayor Pro Tem Horak asked what additional analysis will be completed by staff in the next 120 days. Gloss replied additional modeling permutations could occur and retrofitting could occur if necessary based on the performance of the venue over time.

<b>RESULT:</b>	<b>ORDINANCE NO. 074, 2016, ADOPTED AS AMENDED ON SECOND READING [4 TO 2]</b>
<b>MOVER:</b>	Gino Campana, District 3
<b>SECONDER:</b>	Ray Martinez, District 2
<b>AYES:</b>	Martinez, Stephens, Campana, Horak
<b>NAYS:</b>	Overbeck, Cunniff
<b>ABSENT:</b>	Troxell

**17. Consideration of a motion to waive the City Council's attorney-client privilege for the public disclosure of the May 6, 2016, confidential memorandum from the Boulder City Attorney's Office reporting the results of its investigation concerning the Greeley Municipal Court Judge presiding over a Fort Collins Municipal Court case under an intergovernmental agreement between the Cities of Fort Collins and Greeley that provided for the exchange of judicial services in conflict-of-interest circumstances.**

City Manager Atteberry and City Attorney Daggett left the dais and did not participate in this discussion.

John Duvall, Deputy City Attorney, discussed the background of this issue stating a Fort Collins Police Officer was involved in a traffic accident while on duty in early 2015. A careless driving citation was issued and Judge Lane determined she had a conflict of interest with the case as it involved a Fort Collins officer. Under a 1994 intergovernmental agreement between the cities of Fort Collins and Greeley, Judge Lane requested the Greeley Municipal Judge to preside over the case. The officer was convicted in an August 2015 trial and appealed the case to the Larimer County District court which upheld the conviction in February 2016. On March 1, 2016, Eric Sutherland reported to Fort Collins Police Services that he believed the Fort Collins City Manager, City Attorney and Municipal Judge allegedly committed misdemeanor violations under the City Charter as a result of the Greeley Municipal Judge presiding over the original trial without Council appointing him to hear the case. Under a 1997 intergovernmental agreement with the City of Boulder for the exchange of legal services, Duvall stated the Boulder City Attorney accepted the responsibility to investigate Mr. Sutherland's claims. The report issued by the Boulder City Attorney's Office was provided to Council as a confidential memo in May and Council needed to waive its attorney-client privilege in order to release the memo to the public.

Eric Sutherland stated he would not read the Boulder report. He went to Police Services originally because Council did not do its job appropriately. The sentence of the police officer should have been vacated because it was issued by someone who had not been appointed by Council.

Councilmember Cunniff made a motion, seconded by Councilmember Overbeck, that Council waive its attorney-client privilege regarding the May 6, 2016 confidential memorandum received from the Boulder City Attorney's Office reporting the results of its investigation of alleged Charter violations arising from the Greeley Municipal Judge presiding over a Fort Collins Municipal Court case under an intergovernmental agreement between Greeley and Fort Collins providing for the exchange of judicial services.

<b>RESULT:</b>	<b>MOTION ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Ross Cunniff, District 5
<b>SECONDER:</b>	Bob Overbeck, District 1
<b>AYES:</b>	Martinez, Stephens, Overbeck, Campana, Cunniff, Horak
<b>ABSENT:</b>	Troxell

City Manager Atteberry and City Attorney Daggett returned to the dais.

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

8. **Second Reading of Ordinance No. 070, 2016, Amending the Zoning Map of the City of Fort Collins and Classifying for Zoning Purposes the Property Included in the Mountain's Edge Annexation to the City of Fort Collins, Colorado. (Adopted on Second Reading)**

*This Ordinance, unanimously adopted on First Reading on May 17, 2016, zones the property included in the Mountain's Edge Annexation into the Low Density Mixed-Use Neighborhood zone district.*

*This item is a quasi-judicial matter and if it is considered on the discussion agenda it will be considered in accordance with the procedures described in Section 1(d) of the Council's Rules of Meeting Procedures adopted in Resolution 2015-091.*

Ted Shepard, Chief Planner, stated this is Second Reading of Ordinance No. 070, 2016, which zones the property known as Mountain's Edge, located south of the Holiday Twin Drive-in at the corner of Drake and Overland Trail, as LMN in accordance with the City Structure Plan map.

Natalie Schussberry expressed concern regarding the proposed density for the project at the site.

Councilmember Campana noted Council could not hear issues specific to a proposed project.

Councilmember Cunniff asked about the notification radius for rezonings. Shepard replied the standard is 800 feet; however, the area is usually expanded.

Councilmember Cunniff expressed concern he may be within the notification area and requested a map to ensure he does not have a conflict. It was determined he was out of the notification area by one lot.

Ms. Schussberry expressed concern about the proposed zoning and requested the option of RL zoning be considered.

Stephanie Webb expressed concern regarding stormwater and drainage on the property and stated the security and quality of life in her neighborhood will be negatively impacted by the proposed density. She requested Council consider the option of RL zoning.

Jeff Mark supported the LMN zoning and stated he is sympathetic to drainage issues on the property. He noted any proposed project would be required to meet all applicable standards.

Councilmember Cunniff asked what guided the choice of zoning for the property. Shepard replied the guidance comes from City Plan, noting LMN zoning has been on the Structure Plan Map since City Plan was first developed. He noted the RL zone is not a part of City Plan and

does not support the City Plan vision for growth and development in the growth management area.

Councilmember Cunniff asked about the zoning of the adjacent neighborhood. Shepard replied the Brown Farm subdivision, platted in 1977, is zoned RL.

Councilmember Cunniff asked about the difference in density between LMN and RL. Shepard replied that is difficult to predict as the LMN zone offers a variety of density from 3 to 9 units per acre and a variety of housing types. The RL zone has a minimum lot size of 6,000 square feet, a strict lot width minimum of 60 feet, and does not allow even a duplex.

Councilmember Overbeck asked if the City has looked at the area regarding stormwater issues. Shepard replied the two drainage basins have associated master plans and are mapped, which is why they have the controlled release rate. The conceptual review comments for this project indicated that the release rate would have to be at the two-year historic rate. A range of complexity associated with stormwater management exists on the site regardless of the zoning and those issues would not cause a change in the zoning recommendation.

Councilmember Stephens asked if there is a zoning classification with less density than LMN if RL is no longer used. Shepard replied Urban Estate, Residential Foothills and Rural Land zoning have lower density.

Councilmember Stephens asked if this zoning would allow for apartments. Shepard replied the zoning does allow for multi-family buildings; however it cannot exceed 12 units per building, the building cannot exceed 14,000 square feet in size, and the project cannot exceed 9 units per acre.

Councilmember Campana discussed the desire for a mix of housing types and density in the LMN zone.

Councilmember Cunniff asked what compatibility standards exist with LMN zoning. Shepard replied the compatibility standards are in the general development standards and apply citywide. Additionally, those standards are not formulaic or prescriptive and are meant to be adapted on a case-by-case basis. There are a variety of possibilities for what a plan could look like.

Councilmember Martinez made a motion, seconded by Councilmember Overbeck, to adopt Ordinance No. 070, 2016, on Second Reading.

Councilmember Cunniff expressed concern regarding this area being adjacent to existing open space.

Councilmember Campana stated the zoning seems appropriate given the Structure Plan and encouraged compatibility discussion at the time a development proposal comes forward.

City Attorney Daggett requested a correction to a Land Use Code section in the Ordinance. Councilmembers Martinez and Overbeck accepted the change.

<b>RESULT:</b>	<b>ORDINANCE NO. 070, 2016, ADOPTED AS AMENDED ON SECOND READING [5 TO 1]</b>
<b>MOVER:</b>	Ray Martinez, District 2
<b>SECONDER:</b>	Bob Overbeck, District 1
<b>AYES:</b>	Martinez, Stephens, Overbeck, Campana, Horak
<b>NAYS:</b>	Cunniff
<b>ABSENT:</b>	Troxell

● **OTHER BUSINESS**

Councilmember Cunniff received Council support to clarify the direction regarding Council expectations prior to Second Reading of the Prospect Road eminent domain item. He would like staff to develop an option that lessens impacts to the property at 1535 Remington by removing the left turn land from eastbound Prospect to northbound Remington.

● **ADJOURNMENT**

The meeting adjourned at 9:05 PM.



  
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Mayor Pro Tem

ATTEST:

  
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City Clerk