

October 6, 2020

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

**Council-Manager Form of Government**

**Regular Meeting – 6:00 PM**

(Secretary's Note: Due to the COVID-19 crisis and state and local orders to remain safer at home and not gather, this meeting has been conducted using a hybrid approach allowing in-person participation with strict protocols and a variety of remote participation options.)

● **ROLL CALL**

PRESENT: Pignataro, Gorgol, Gutowsky, Summers, Stephens, Troxell, Cunniff  
STAFF PRESENT: Atteberry, Daggett, Coldiron

● **AGENDA REVIEW: CITY MANAGER**

City Manager Atteberry noted there is Spanish interpretation available for this meeting. He stated consideration of a motion to adjourn into Executive Session to discuss real property acquisition and legal issues related to the Hughes Stadium property has been added to the agenda. He also recommended switching the order of the last two items under Other Business. He reiterated no formal action is planned during Executive Sessions.

Mayor Troxell and City Clerk Coldiron outlined the meeting protocol and remote participation options.

● **PUBLIC COMMENT**

Louis Pintkowski thanked Council for their support of local businesses during COVID but expressed concern about vehicle noise particularly given the large number of outdoor dining options.

Joshua Judd commented on civic participation and questioned what citizens should do to most effectively participate in, and contribute to, local government.

Rory Heath commented on the need to update ethics laws and requested Mayor Troxell and Mayor Pro Tem Stephens recuse themselves from the Executive Session on the Hughes Stadium property. He also stated there is still an opportunity for the Good Neighbor Fund to be applied.

Kathryn Dubiel stated 24 hours is not sufficient notice for a Council agenda change for an item of such public interest as the Hughes Stadium property. She stated citizens have had no updates on the proposal that CSU meet with City leaders to discuss mutual goals for the property and requested Council hold off on making any decisions on the property until the citizen-initiative petition process has completed.

Mary Alice Grant stated Council did commit to reviewing its ethics regulations and questioned whether it is ethical for members of Council to vote on items related to their employer, such as the Hughes Stadium property. She also opposed the last minute agenda change adding the Executive Session on the topic.

David Rout, Homeward Alliance Executive Director, discussed the emergency need for a day shelter for individuals experiencing homelessness.

Beth Benschiet opposed the Hughes Stadium Executive Session and stated the meeting should be open to public participation. She also requested Mayor Troxell and Mayor Pro Tem Stephens withdraw from the discussion.

Wes Groves discussed an email he sent regarding Fort Collins' police biases and stated he would like to see an independent firm hired to execute his three-point plan for review of Fort Collins Police Services.

● **PUBLIC COMMENT FOLLOW-UP**

Mayor Troxell summarized the citizen comments.

Councilmember Cunniff stated there are two reasons by which the Hughes Stadium Executive Session is proposed to be authorized: one has to do with real property acquisition and the other has to do with specific legal questions and legal advice. He noted it is in the best interest of Fort Collins' residents and taxpayers to have Council address these topics in Executive Session. He stated there have not been any structured discussions between Council and the CSU Board of Regents but that there have been one-on-one discussions with various City staff members. City Manager Atteberry replied he has had numerous conversations with Chancellor Frank over the past several weeks around the possibility of City purchase of the land. He stated the type of proposed Executive Session is normal and customary and he would support it.

Councilmember Cunniff discussed public engagement in local government noting it is difficult to get a great deal of participation. He asked if a review of the ethics rules is on the 6-month planning calendar. City Clerk Coldiron replied in the negative. City Attorney Daggett noted Council has been waiting to hear from her regarding options for changing the City Code. She stated any changes to the conflict of interest provisions, which are in the City Charter, would need to be placed on the April ballot. She anticipates providing information to Council on a schedule that allows for the item to be considered in the fall.

Councilmember Gorgol discussed community engagement and encouraged residents to email, call, or text with any concerns or perspectives.

Councilmember Gutowsky presented a request from a citizen who was not able to be present, John Runge. He asked about security at ballot drop boxes and asked if Fort Collins Police will be involved in security measures. He specifically asked if supporters of political candidates that violate the 100-foot buffer to polling location will be removed by Police. Police Chief Swoboda replied many plans are being put into place to ensure rules are being followed at polling places and that those locations remain safe and secure.

Councilmember Pignataro requested input on Mr. Pintkowski's concerns about traffic noise in the downtown area. City Manager Atteberry noted noise standards are very difficult to enforce but agreed there are issues. Police Chief Swoboda replied cruising on College Avenue has been an ongoing issue for decades and both the Neighborhood Engagement Team and the Patrol Division have undergone multiple directed enforcement efforts. He stated tickets are written routinely; however, that is not going to solve all the issues.

Councilmember Pignataro asked how long it is anticipated the expanded outdoor dining and short-term pickup parking will be in place. City Manager Atteberry replied he will respond in writing.

Councilmember Pignataro asked if there are any updates on the day shelter issue. City Manager Atteberry replied staff does not have any good solutions at this point but are working diligently to find something. Jackie Kozak-Thiel, Chief Sustainability Officer, noted there are multiple entities involved in the urgent effort to find a day shelter; however, a space has yet to be identified.

City Manager Atteberry noted Larimer County could be a helpful resource in the discussion and thanked Mr. Rout for encouraging its participation.

Councilmember Summers encouraged community partners to share their ideas around a day shelter location.

Mayor Pro Tem Stephens suggested the formation of a short video about the conduct and order of a typical Council meeting.

Councilmember Summers commended that idea and noted the opportunities for engagement are plentiful. He commented on the difference between Councilmembers and citizens.

Mayor Troxell requested input regarding Item No. 13, *Resolution 2020-089 Authorizing the Mayor to Execute a Revised Intergovernmental Agreement with Colorado State University Related to Canvas Stadium*, which involves the cessation of the Neighborhood Fund. City Manager Atteberry replied there were very few submittals to the Neighborhood Fund over the five years it was in place. He stated the changes made in this item were designed to look toward the future and eliminate irrelevant items.

● **CONSENT CALENDAR**

Councilmember Summers withdrew Item No. 7, *Items Relating to Control of Animals*, from the Consent Agenda.

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

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Kristin Stephens, District 4
<b>SECONDER:</b>	Julie Pignataro, District 2
<b>AYES:</b>	Pignataro, Gorgol, Gutowsky, Summers, Stephens, Troxell, Cunniff

1. **Consideration and Approval of the Minutes of the September 1, 2020 Regular Council Meeting. (Adopted)**

The purpose of this item is to approve the minutes from the September 1, 2020 Regular Council Meeting.

2. **Second Reading of Ordinance No. 113, 2020, Making Supplemental Appropriations and Authorizing Transfers of Appropriations for the Northside Aztlan Resilience Hub Project. (Adopted)**

This Ordinance, unanimously adopted on First Reading on September 15, 2020, appropriates \$200,000 in Renewable and Clean Energy Challenge grant funds from the Department of Local Affairs (DOLA) for a project to establish the Northside Aztlan Community Center (Aztlan Center) as a resilience hub. The City has been notified of an award of \$200,000 in support of energy and storage

measures at the Aztlan Center to improve its function as a resilience hub during community emergencies.

The total project cost is \$425,000, which includes an additional \$200,000 as a required local match, and \$25,000 for non-reimbursable project fees. The structure of the funding for the total project would use the \$200,000 in grant proceeds from DOLA, \$200,000 for the required local match from the 2020 Energy Services budget (already appropriated in the Light & Power Fund), and \$25,000 for the non-reimbursable project fees from the 2020 Municipal Innovation Fund (already appropriated in the Keep Fort Collins Great Fund). The \$200,000 for the local match from the 2020 Energy Services budget is available as a result of anticipated underspend due to the COVID-19 pandemic.

3. **Second Reading of Ordinance No. 114, 2020, Adopting the 2020 National Electric Code Standards. (Adopted)**

This Ordinance, unanimously adopted on First Reading on September 15, 2020, adopts the most up-to-date electrical code that will align the City and the minimum State allowed Electrical Code. The National Electrical Code (NEC) as Adopted by the State of Colorado Department of Regulatory Agencies (DORA) is the standard for all electrical installations in the State. By aligning our local adoptions with DORA, we will be in line with the minimum life safety requirement for electrical installations and repairs.

4. **Second Reading of Ordinance No. 115, 2020, Amending the Zoning Map of the City of Fort Collins and Amending Ordinance No. 177, 2017, by Changing the Zoning Classification for Property Known as the Spring Creek Rezoning REZ170001 – Correction of Map Errors. (Adopted)**

This Ordinance, unanimously adopted on First Reading on September 15, 2020, makes minor corrections to the legal description for a previously approved rezoning. On January 2, 2018, Council approved a rezoning ordinance for the Spring Creek Rezone with six conditions, following a recommendation of approval from the Planning and Zoning Board. In 2019, staff discovered errors in the legal description related to this rezoning action. The revised Ordinance and attachments correct the errors that have been identified. The City of Fort Collins is the applicant for this item.

5. **Second Reading of Ordinance No. 116, 2020, Suspending Certain Provisions of the City's Land Use Code to Permit Temporary Use of Certain Non-Residential Buildings for Child Care Centers in Response to the COVID-19 Pandemic. (Adopted)**

This Ordinance, unanimously adopted on First Reading on September 15, 2020, will exempt certain child care uses from development review and Land Use Code requirements through May 28, 2021. The COVID-19 pandemic has created a need for distributed learning and daycare sites, but the number of buildings already approved for child care in the community is too limited to meet current demands. This Ordinance would allow for child care uses to operate within buildings that have not previously been approved for such use, provided all applicable health and life safety requirements have been met. It would exempt child care centers, as defined in the Land Use Code, from the development review process for a limited timeframe, aligned to the 2020-21 academic school year, to allow for remote learning and daytime care of children. Compliance with building code, fire code, health department requirements, and state licensing would still be required, as applicable.

6. **Items Pertaining to Annual Adjustment Ordinance. (Adopted)**

A. First Reading of Ordinance No. 117, 2020, Appropriating Additional Revenue and Authorizing Transfers of Appropriations in Various City Funds.

B. First Reading of Ordinance No. 118, 2020, Appropriating Prior Year Reserves and Authorizing Transfers of Appropriations in Various City Funds.

The purpose of these Annual Adjustment Ordinances is to combine dedicated and additional revenues or prior-year reserves that need to be appropriated before the end of the year to cover the related expenses that were not anticipated and, therefore, not included in the 2020 annual budget appropriation. The additional revenue is primarily from fees, charges, rents, contributions, donations and grants that have been paid to City departments to offset specific expenses.

7. **First Reading of Ordinance No. 121, 2020, Amending the Code of the City of Fort Collins to Correct an Error in Section 7-134 Relating to the Registration of Committees During Election Campaigns. (Adopted)**

The purpose of this item is to correct a long-standing error in Section 7-134 relating to the registration of committees prior to accepting any contributions or making any expenditures.

8. **Public Hearing and First Reading of Ordinance No. 122, 2020 Amending the Zoning Map of the City of Fort Collins by Changing the Zoning Classification of that Certain Property Known as the Fischer Rezoning. (Adopted)**

*This item is a quasi-judicial matter and if it is considered on the discussion agenda, it will be considered in accordance with Section 1(f) of the Council's Rules of Meeting Procedures adopted in Resolution 2019-064.*

The purpose of this item is to amend the City's Zoning Map to change the zoning designation on two existing single family residential properties, 1185 and 1201 Westward Drive, from RL, Low Density Residential, to NCB, Neighborhood Conservation Buffer. 1185 Westward abuts the single family property at the southwest corner of Shields Street and Westward Drive, and 1201 abuts 1185. The rezoning would merge the two properties into a larger NCB-zoned area along South Shields Street that abuts the properties on two sides.

The rezoning request is subject to the criteria in Section 2.9.4 of the Land Use Code. The rezoning may be approved, approved with conditions, or denied by Council after receiving a recommendation from the Planning and Zoning Board, which voted 4-2 to recommend approval of the request with one condition as recommended in the staff report with agreement from the petitioner.

9. **First Reading of Ordinance No. 123, 2020, Authorizing the Conveyance of a Permanent Waterline Easement and a Temporary Construction Easement on Meadow Springs Ranch to the Northern Colorado Water Association. (Adopted)**

The purpose of this item is to authorize the conveyance of a permanent waterline easement and a temporary construction easement to the Northern Colorado Water Association (NCWA) on Utilities' Meadow Springs Ranch. The proposed easement area will traverse Meadow Springs Ranch (MSR) over an alignment that City staff previously worked on, and agreed to, with NCWA in 2009. The primary purpose of the pipeline is to provide a redundant transmission main to assist in providing a reliable water supply to NCWA's existing and future customers.

10. **Emergency Ordinance No. 124, 2020, Approving Updated Emergency Rule and Regulation No. 2020-17A Regarding Temporary Outdoor Expansion Permits. (Adopted)**

The purpose of this item is to update Emergency Rule and Regulation No. 2020-17 enacted by the City Manager on May 28, 2020, in response to the COVID-19 emergency. Section 2-671(a)(6)a. of the City Code provides that emergency rules and regulations must be confirmed at the earliest practical time by Council. This Emergency Ordinance seeks Council's approval and ratification of Updated Emergency Rule and Regulation No. 2020-17A, replacing Regulation No. 2020-17 and extending Outdoor Expansion Permits to terminate when the declared local emergency ends (rather than September 27, 2020 as currently provided).

The City Charter provides for the adoption of emergency ordinances as immediately necessary, to preserve the public property, health, peace, or safety, and requires that for adoption an emergency ordinance must be approved by an affirmative vote of five Councilmembers.

11. **Resolution 2020-088 Authorizing a Conservation Agriculture Lease on Flores del Sol Natural Area to Poudre Valley Community Farms. (Adopted)**

The purpose of this item is to consider a 10-year lease to Poudre Valley Community Farms (PVCF) for a conservation agriculture project on Flores del Sol Natural Area. Conservation agriculture on natural areas represents a slight shift in land management for the Natural Areas Department (Department). The approach aligns agricultural management practices with the Department's conservation mission, while supporting the City's local, sustainable agriculture goals.

12. **Resolution 2020-089 Authorizing the Mayor to Execute a Revised Intergovernmental Agreement with Colorado State University Related to Canvas Stadium. (Adopted)**

The purpose of this item is to approve a Resolution authorizing the City Manager to sign the CSU - City of Fort Collins Stadium Operations Intergovernmental Agreement.

In 2015, the City and CSU entered into an Intergovernmental Agreement (IGA) to address the construction and opening of the new stadium. The 5-year term of this agreement concluded this year and both parties agreed to a new 5-year IGA. The fundamental structure and intention of the new IGA is the same as the previous version, with the purpose of the original agreement to ensure the stadium experience continues to be of benefit to the community.

13. **Resolution 2020-090 Approving and Authorizing the City Manager to Execute, and Amend from Time to Time, an Intergovernmental Agreement with Colorado State University for Purchase of Transportation Services. (Adopted)**

The purpose of this item is to approve an Intergovernmental Agreement ("IGA") between Colorado State University, the Associated Students of Colorado State University (collectively "CSU"), and City of Fort Collins Transfort in which CSU will fund the use of Transfort services by CSU students. CSU supports those efforts and will fund the use of Transfort services by University faculty and staff, as well as the provision by Transfort of additional services for the benefit of the students, CSU and its campuses. The parties will further the goals of public transportation in and for CSU and the City of Fort Collins.

14. **Resolution 2020-091 Authorizing a Livestock Grazing Lease, Sublease and Residential Lease on Soapstone Prairie Natural Area with Folsom Grazing Association, LLC. (Adopted)**

The purpose of this item is to consider a 10-year grazing lease with Folsom Grazing Association (FGA) at Soapstone Prairie Natural Area (SPNA). The outcome associated with the lease is the cultivation and maintenance of a healthy grassland ecosystem. Grazing is an essential conservation management tool. The current lease agreement between the City and FGA expires in December 2020.

15. **Resolution 2020-092 Deferring Payment of the Stormwater Plant Investment Fee for the Poudre R-1 School District's School Site Located on East Prospect Road. (Adopted)**

The purpose of this item is to seek Council's approval on the deferral of Stormwater Plant Investment Fees for the current development of the Poudre School District Prospect Site pending de-annexation from the City of Fort Collins and annexation into the Town of Timnath.

● **CONSENT CALENDAR FOLLOW-UP**

Mayor Pro Tem Stephens commented on Item No. 11, *Emergency Ordinance No. 124, 2020, Approving Updated Emergency Rule and Regulation No. 2020-17A Regarding Temporary*

*Outdoor Expansion Permits*, and thanked the City Manager for making those expansions. She noted there is a process in place for restaurants who may want to add outdoor heating elements.

● **STAFF REPORTS**

A. Community Dashboard Metric: Cumulative Lane Miles of Roadway Pavement Improved. (Larry Schneider)

Larry Schneider, Streets Director, reported on the City's community dashboard metric of lane mile improvement. He detailed the street maintenance program operations and stated the original 2020 target for pavement improvement in the city was 95 lane miles; however, with the budget reductions, the target was revised to 75 lane miles, of which 68 are already complete. He discussed the various paving treatments utilized.

Mayor Troxell thanked Schneider and his team for their work and continued improvement.

● **COUNCILMEMBER REPORTS**

Mayor Troxell reported on the virtual Tour de Corgi event, the Eastside Park opening, and the virtual ribbon cutting ceremony for the new nursing and health sciences building at Front Range Community College. He also reported on the swearing in of Rabbi Gorelik as a chaplain within the Colorado National Guard and on the Otter Box exhibit at the Art Museum.

Councilmember Gutowsky reported on the Día de los Muertos exhibit at the Global Village Museum of Arts and Cultures and the Eastside Park opening. She discussed her vote to support the recommendation for the Planning and Zoning Board vacancy and stated she regrets not being more assertive in pressing for a comparative review of the top three finalists prior to casting her vote. She expressed concern about the message the appointment may have sent to the community regarding the process of selecting new Boards and Commissions members. She urged her fellow Council members to join her in refining the process by continuing to strive for diversity and inclusion on the Boards and Commissions and encouraged citizens to continue to apply for future opportunities.

Councilmember Gutowsky reminded citizens to not steal campaign signs from others' yards.

Mayor Pro Tem Stephens reported on the recent concert at the Gardens on Spring Creek and the recent North Front Range Metropolitan Planning Organization meeting.

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

16. Items Relating to Control of Animals. (Adopted on First Reading)

A. *First Reading of Ordinance No. 119, 2020, Amending Section 4-94 of the Code of the City of Fort Collins Regarding Animal Disturbance of Peace and Quiet.*

B. *First Reading of Ordinance No. 120, 2020, Amending Various Sections of Chapter 4 of the Code of the City of Fort Collins Regarding Dangerous and Vicious Animals.*

*The purpose of this item is to clarify existing City Code language to guide enforcement, prosecution and the Municipal Court regarding violations and penalties for animal disturbance and dangerous animals in the City.*

Councilmember Summers stated he has heard some concerns from constituents on this item and wanted to ensure they were addressed.

Cynthia Scarpa requested the ordinance be updated to include specific parameters around the terms 'excessive, continuous, and untimely' and requested consistency regarding how complaints are handled by animal control officers. She expressed concern the existing verbiage gives the complainant all the power.

Councilmember Summers stated some more specific language could be beneficial in order to reduce subjectivity in enforcement. Bronwyn Scurlock, Assistant City Attorney, stated each complaint is addressed individually and unreasonable noise must be proven. Rigo Neira, Director of Animal Protection and Control with the Larimer Humane Society, discussed the increase in complaints due to more people working from home and noted there is a much higher standard for a citation being issued and prosecuted in court. He also noted a warning is required for each dog owner prior to a citation being issued.

Councilmember Summers discussed situations in which greater noise is being made by other things in the neighborhood than the barking dog and asked if Neighborhood Services staff get involved. Marcy Yoder, Neighborhood Services Director, replied both Neighborhood Services and the Humane Society have posted guidelines for encouraging neighbors to talk to each other on their websites.

Councilmember Summers asked about the process that occurs when an individual complains about a barking dog. Mr. Neira replied staff first determines whether previous warnings have been issued, then asks the caller whether they are willing to go on record, for a description of the animal, and if they would like to have a warning issued. He went on to detail the process for making contact with animal owners and the citation process.

Councilmember Summers stated he would like to see more of an emphasis on getting issues resolved.

Councilmember Pignataro agreed she wished there was a better way to involve Neighborhood Services in mediation prior to citations being issued. She asked if there are ordinances related to allowed times for other types of noise. City Attorney Daggett replied in the affirmative and stated time of day is stated generally in this ordinance because there is a wide range of different kinds of circumstances under which a barking dog could be an irritant. She stated staff could look at adding more detailed considerations prior to Second Reading.

Councilmember Pignataro stated the subjectivity of this ordinance is quite broad compared to some of the other noise ordinances.

Mayor Pro Tem Stephens made a motion, seconded by Councilmember Gorgol, to adopt Ordinance No. 119, 2020, on First Reading.

Councilmember Summers stated he would oppose the motion as he would like a report back prior to Second Reading regarding the process between a warning and citation and possible options for a mediation process. City Attorney Daggett replied staff will examine options related to the concerns discussed and follow-up with either changes to the ordinance or with additional explanation.

Councilmember Cunniff noted peaceful neighborhoods are the main desire; therefore, having a broader portfolio of mediation techniques could be helpful.



**RESULT:** ORDINANCE NO. 119, 2020, ADOPTED ON FIRST READING [5 TO 2]  
**MOVER:** Kristin Stephens, District 4  
**SECONDER:** Susan Gutowsky, District 1  
**AYES:** Gorgol, Gutowsky, Summers, Stephens, Troxell  
**NAYS:** Pignataro, Cunniff

Councilmember Summers noted this discussion is illustrative of Councilmembers recognizing specific concerns of citizens.

Councilmember Pignataro noted this item will not be placed on the Consent Agenda due to the split vote giving further opportunity for discussion.

**RESULT:** ORDINANCE NO. 120, 2020, ADOPTED ON FIRST READING [UNANIMOUS]  
**MOVER:** Kristin Stephens, District 4  
**SECONDER:** Susan Gutowsky, District 1  
**AYES:** Pignataro, Gorgol, Gutowsky, Summers, Stephens, Troxell, Cunniff

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

● **DISCUSSION ITEMS**

17. **Public Hearing #2 on the 2021 Recommended Budget for the City of Fort Collins. (No Action Taken)**

*This is the second public hearing on the City Manager's 2021 Recommended Budget for the City of Fort Collins. The purpose of this public hearing is to gather public input on the 2021 budget. The first public hearing was conducted at Council's Tuesday, September 15, 2020, regular meeting. Both hearings were set by Council adoption of Resolution 2020-081 at its September 1, 2020, meeting. The City Manager's 2021 Recommended Budget can be reviewed at the City Clerk's Office by appointment only and online at [fcgov.com/budget](http://fcgov.com/budget).*

*On May 19, 2020, Council adopted Ordinance No. 067, 2020, suspending the biennial budget term requirement in Code Section 8-1 for fiscal years 2021 and 2022 in order to allow for a one-year budget term for both years, and to return to the biennial budget term required by Code Section 8-1 beginning with fiscal years 2023 and 2024. Both hearings provided the public the option for in-person comment or remote participation through the online Zoom platform.*

Jessica MacMillan, Parks and Recreation Advisory Board Chair, discussed the need for a permanent ongoing funding source for parks operations and maintenance.

Joshua Judd discussed budget offer 30.12 which deals with the preservation of the community's history. He expressed concern about the reduction in funding for CSU graduate students in historic preservation.

Patricia Miller discussed the importance for all citizens to have legal representation and due process. She requested the City begin an immigration legal services fund.

Kristin (no last name given) discussed the importance of access to low-cost legal representation for immigrants.

Dr. Genina (indecipherable last name) discussed the importance of access to legal representation for immigrants.

Berta (no last name given) discussed the importance of access to legal representation for immigrants and requested the City start a fund for such a purpose.

Melina (indecipherable last name) discussed the importance of access to legal representation for immigrants.

Adela Gonzales discussed the importance of access to legal representation for immigrants.

Erica (no last name given) discussed the importance of access to legal representation for immigrants and requested the City start a fund for such a purpose.

Adriana (no last name given) discussed the importance of access to legal representation for immigrants.

Sylvia (indecipherable last name) discussed the importance of access to legal representation for immigrants.

Yenni (no last name given) discussed the importance of access to legal representation for immigrants.

Violetta Chapin discussed the importance of access to legal representation for immigrants.

Adele (indecipherable last name) discussed the importance of access to legal representation for immigrants.

Debbie (indecipherable last name) discussed the importance of access to legal representation for immigrants and supported approving funds for such services in the City budget.

Joshua Stallings discussed the importance of access to legal representation for immigrants and encouraged the City to start a fund for such a purpose.

Andrew Naves noted the Fort Collins Strategic Plan focuses on equity, inclusion, and diversity and stated Fort Collins is failing on equity leading with race. He requested the City fund the hiring of experts in equity and diversity.

Nick Michell, Fort Collins Sustainability Group, discussed poor air quality concerns and stated this is not the time to be cutting funds to the air quality program or scaling down climate commitments.

Cindy Conlon supported an immigrant legal services fund and requested prioritizing Connexion installation to low-income areas of town, including mobile home parks. She also requested a renegotiation of the contract that gives Police officers raises, requested funding to public transportation not be cut, and requested classified hourly personnel jobs be maintained.

Christy Quick requested no cuts be made to transit or to hourly wage jobs.

Nancy York expressed concern about the Lemay and Vine overpass given its proximity to the Alta Vista neighborhood.

Julie Suitor stated she would like to see inclusive public engagement show up in the key purchases list in the 2021 budget.

Silen Wellington stated the budget should include transparent data about how each outcome area relates to each other and about the year-to-year budget changes in each outcome area. They opposed increasing the number of patrol officers.

Sam Houghteling, Parks and Recreation Advisory Board, discussed ongoing funding challenges that are specifically acute in the maintenance of the existing parks infrastructure and expressed support for temporarily shifting conservation trust fund dollars away from new infrastructure to park maintenance.

Haley Bugg stated the City's stated values of equity, diversity, and inclusion are not included in the budget. She specifically opposed the increase to the Police Services budget and raises for officers.

Ryan Barone expressed support for an immigration legal services fund and discussed the importance of equitable reliable internet access.

MJ (no last name given) stated the Budgeting for Outcomes process is priority-based and this budget illustrates the lack of prioritizing equity.

Carrie Caldwell stated the Strategic Plan includes the objective of cultivating a safe and welcoming community focusing on equitable engagement, outcomes, and service delivery for all, leading with race. She stated there was a lack of meaningful engagement with communities of color on the development of the budget and there was a failure to analyze and prioritize the impact of budget outcomes on communities of color.

Sharon Davis expressed concern about the budget document stating it lacks transparency in terms of how the City and community priorities are clearly addressed in funding recommendations. She questioned how success is measured within the document and opposed the lack of outreach to citizens regarding the change in public input opportunities. She encouraged delaying approval of the budget until concerns are addressed.

Kristin Heightner echoed other speakers' concerns about the budget not demonstrating tangible actions that back up the City's claim to value diversity, equity, and inclusion. She questioned the progress of the ad hoc community impact committee and requested Connexion installation be prioritized at mobile home parks and low-income areas.

Dierdre Sullivan discussed the richness and depth of the input this evening and highlighted the community's priorities around equity, diversity, and inclusion to be reflected in the budget.

Torin (indecipherable last name) agreed that the City's commitment to serve equity, diversity, and inclusion has not been met. He supported reducing the police budget in favor of affordable housing and supported the formation of an immigrant legal defense fund.

Heather Meyer stated the budget process was not transparent or inclusive and opposed the short time for public input. She requested Council consider reevaluating the budget timeline to allow for engagement of directly-impacted populations.

Chrissy Chard questioned what has been done since the last hearing when people expressed concern about the lack of community engagement in the budget process. She discussed the importance of diversity and stated mobile home parks must be prioritized by Connexion.

Holly LaMassurier discussed the importance of addressing complex community challenges in the budget, including equitable community services and housing. She stated the City Manager's recommended budget has not borne out resource changes over the past cycles to help address these challenges.

Councilmember Cunniff requested staff input regarding the budget timeline. City Attorney Daggett replied the City Charter provides a deadline for the City Manager to provide a recommended budget and a requirement that the annual appropriation ordinance and budget be adopted by the end of November; therefore, the schedule for consideration of the budget is timed to allow for Council to be voting on that timeline.

City Manager Atteberry noted the recommended budget has been out for 35 days and Council will not consider adoption for another 30 days.

Councilmember Cunniff requested staff input regarding the installation of Connexion in mobile home parks. City Manager Atteberry noted the broadband proposal spoke to service for all and every property in Fort Collins will have direct access. He noted there have been issues with property owners not granting access to mobile home parks thereby making access to individual units difficult. He also discussed the digital equity program which provides service at a significantly reduced cost for those who qualify.

Councilmember Cunniff requested staff input regarding the use of broadband funds on other priorities given it is an enterprise fund. City Manager Atteberry replied funds collected from utility rate payers cannot be used for any other use; however, each utility makes payments in lieu of taxes (PILOT) to the City which is to be reinvested in the digital equity fund in the case of the broadband utility.

Travis Storin, Chief Financial Officer, concurred with City Manager Atteberry's comments, particularly with respect to the intended service area for the Connexion utility and constraints around the legally-defined enterprise funds. He noted the ability to service digital equity is intrinsically tied to the expansion of Connexion as the PILOTs are funded by full-paying ratepayers.

Councilmember Cunniff asked about the net reduction in the Police Services budget. Storin replied he would provide the exact number at the next worksession. City Manager Atteberry replied the Campus West substation has been closed and there has been a reallocation of resources from Police to homeless services and Outreach Fort Collins. He also noted that what appears to be a reduction in the Social Sustainability budget is due to grants that were part of COVID relief funding and are therefore not a part of the 2021 budget.

Councilmember Cunniff asked if conversations have occurred with the Fraternal Order of Police regarding salaries. City Manager Atteberry replied in the negative and noted there is a contract in place. Councilmember Cunniff suggested some type of conversation may be helpful but stated the contract should be honored.

Councilmember Cunniff asked if there is a budget for any Police Services staffing increases. City Manager Atteberry replied the City's hiring freeze applies to Police Services, and about 60 frozen positions are being carried over from 2020 to 2021. Additionally, as attrition occurs, those positions are also frozen though there is a possibility for exceptions to be made.

City Manager Atteberry commented on Council's ability to do mid-year budget amendments and noted the Community Impact Committee's work could lead to the need for appropriations in the first quarter of the year.

Councilmember Cunniff noted this is a single-year budget which may allow for additional nimbleness in better resolving community concerns.

Police Chief Swoboda stated the police budget is being reduced by about \$1.7 million which includes staffing freezes, closing the Campus West substation, funding Outreach Fort Collins, assisting in funding a homeless coordinator, and reducing squad cars. He noted the increase to the Chief's budget is due to an accounting change. He stated the full school resource staff will be in place when schools reopen.

Mayor Pro Tem Stephens thanked the citizens who spoke and commended the direct requests of Council for the budget. She requested staff examine the possibility of a legal services fund and noted the demand is currently down for public transportation; however, there are members of the community who are transit-dependent. She requested staff carefully examine which routes are cut.

Mayor Pro Tem Stephens discussed the importance of embedding equity throughout the City organization and encouraged the Community Impact Committee to examine that process. She stated one of the important things about starting the broadband utility was the ability to build in equity. She noted Council expects action items to come from both the Community Impact Committee and the ad hoc Housing Committee.

Mayor Pro Tem Stephens commented on the importance of making the budget document more user-friendly and requested input regarding hourly City employees. Teresa Roche, Human Resources Director, replied there are no planned reductions for classified or hourly positions as the budget currently stands. There are, however, a number of hourly employees on furlough due to closed facilities and program reductions. As facilities reopen, employees have been recalled.

City Manager Atteberry noted the demand for City services has not decreased and he does not believe making further reductions in the workforce is a smart strategy in this case.

Mayor Pro Tem Stephens discussed the impact of the Vine and Lemay overpass on pollution in the area stating it should alleviate some pollution issues as cars will no longer be idling waiting for trains. City Manager Atteberry concurred and noted the intersection is failing as there is too much volume for the existing capacity. He also noted the improvements will aid in pedestrian and bicycle connectivity.

Mayor Troxell discussed the design of the new overpass and stated it will be a good thing for area neighborhoods.

Councilmember Pignataro noted Charter amendments have to happen by a vote of the citizens; therefore, postponing adoption of the budget is not an option. She agreed she would like to see some more information on a legal services fund. She asked if the hiring freeze also freezes

promotions. Roche replied the business need is first examined and rescoping can occur; however, a moratorium has been placed on the reevaluation of many positions this year. City Manager Atteberry noted individuals must be appropriately compensated and classified for the level of work they are doing.

Councilmember Pignataro asked if there is a special name for a temporary reduction. Storin replied there are various categories including scale back, eliminate, and pause. He stated scale back items are intended to be ongoing scaled back, elimination would be intended to be permanent, and paused items would return as restore offers in next year's budget cycle.

Councilmember Pignataro asked if items could shift among categories. Storin replied in the affirmative and stated elimination items would not include a budget offer during the next budget cycle unless directed otherwise.

Councilmember Pignataro discussed the possibility of an equity office being instated in the future. She discussed the overall department-by-department budget cutting exercise.

City Manager Atteberry commented on the work that goes into ensuring the budget document is accessible and understandable and acknowledged more work can be done toward that end.

Councilmember Gorgol commented on Connexion access and asked if there is a plan that prioritizes equity for the build out of the utility. City Manager Atteberry replied he was not aware of one but would discuss the issue with staff.

Councilmember Gorgol noted Council has prioritized housing and has included resources toward that end including the hiring of a rebate coordinator and mobile home park liaison. She acknowledged more work needs to be done on bringing in voices from the BIPOC community and expressed support for staff examining a legal services fund.

Mayor Troxell questioned how a legal services fund would operate and how individuals would qualify. City Manager Atteberry replied staff will be taking lessons from the CARES Act mini-grant process around illegal evictions and agreed leveraging community partners for such work could be beneficial.

Mayor Troxell commented on the Lemay and Vine project and expressed support for the digital equity program. He also stated parks maintenance funding needs to be considered.

Storin outlined the remaining dates for budget worksessions and hearings.

**18. Consideration of an Appeal of Hearing Officer Decision on 613 S. Meldrum Carriage House Modifications of Standards (MOD 200001). (Adopted)**

*The purpose of this item is to consider an Appeal of the Hearing Officer Decision, dated July 15, 2020, denying the request for five Modifications of Standards (MOD 200001) for a "carriage house" (i.e., a single-family detached dwelling) located behind a street-facing dwelling in the Neighborhood Conservation (NCB) zoning district. On July 28, 2020, a Notice of Appeal was filed alleging that the administrative hearing officer failed to properly interpret and apply relevant provisions of the City of Fort Collins Land Use Code (LUC) in rendering a final decision.*

City Attorney Daggett stated this item is a hearing by the Council of an appeal of the July 15, 2020 Administrative Hearing Officer decision denying five stand-alone modifications of standards requested for 613 South Meldrum Street. She outlined the hearing process.

Paul Sizemore, Interim Community Development and Neighborhood Services Director, stated the modifications requested in this case would have allowed the construction of a carriage house larger than would be allowed by the zoning regulations. He noted the property is within the Neighborhood Conservation Buffer zone district which provides a transition area between a more homogenous residential neighborhood and higher-intensity commercial areas. He stated a modification is a process that evaluates a request against specific criteria, and if approved, allows development that does not strictly adhere to a development standard.

Sizemore outlined the specific requests for modification and noted any approved modification must not be found to be detrimental to the public good and meet one of four other criteria. In this case, the other criterion is that the modifications are as good or better at achieving the standard than a complying plan. He stated the applicants' assessment was that their proposal advances the purpose of the zone district to provide a transition from commercial to residential areas and that the standards for which they are seeking modifications are outdated and no longer appropriate to the area due to changing conditions. The Hearing Officer ultimately concluded that the proposed plan would not be detrimental to the public good; however, she also concluded she was obligated to make a decision based on the adopted wording of the Code and that the purpose of the standards is specifically to limit the bulk and massing of carriage houses in the rear yard. As a result, she denied the modification requests stating she does not have the authority to grant the modifications on the basis of outdated standards.

Sizemore stated the applicants alleged the Hearing Officer failed to properly interpret and apply relevant Land Use Code sections and specifically opposed the Hearing Officer's conclusion that she lacks the authority to grant the modifications on the basis of outdated standards. The notice of appeal also points out that both staff and the Hearing Officer recognize merits to the proposed plan and points out discrepancies between the standards for other types of development allowed in the zone district and the standards that are in place for carriage houses.

Mayor Troxell requested Councilmembers comment on observations made at the site visit that may be relevant to the appeal.

Councilmember Cunniff stated he observed the site and asked questions about the siting of the proposed carriage house and the surrounding buildings and neighborhood.

Mayor Pro Tem Stephens stated she observed the site and the location of the proposed carriage house.

Councilmember Gutowsky stated she observed the site and location of the proposed carriage house.

Mayor Troxell stated he observed the site and location of the proposed carriage house and noted some questions were asked about the outbuilding.

Mayor Troxell asked the appellants, Jeff Palomo and Denise White, to identify themselves.

(Secretary's Note: No additional parties-in-interest were identified other than the appellants.)

Denise White asked if she will be able to respond to any Council questions. Mayor Troxell replied in the affirmative.

Mayor Pro Tem Stephens asked about the admission of new evidence noting there is usually an opposing party who would object. City Attorney Daggett replied staff will be responsible for identifying new evidence and noted Councilmembers can ask questions about possible new evidence.

Ms. White thanked Council and staff for their time and consideration. She discussed the desire of herself and her partner, Jeff Palomo, to age in place at this home and preserve the historic structure while adding a carriage house that will give them the space they need while remaining compatible with the neighborhood. She discussed the property and its location within the Neighborhood Conservation Buffer zone and outlined a complying proposal for her neighbor's property that is a duplex with a breezeway. She noted her other adjacent neighbor has expressed support for her proposal.

Ms. White noted some of the standards that apply to this project are almost 30 years old and that the carriage house standards that apply were designed more for residential neighborhoods, not the conservation zones. She discussed the preferred design and noted the existing shed would be eliminated if they are allowed to build the carriage house with garage as desired. She also discussed other complying options and issues with each of those. Ms. White stated their modifications do promote the purpose of the standards equally well or better than complying plans specifically when considering the extent and mass of construction in the rear yard and the neighborhood character.

Councilmember Gutowsky asked if there are plans to rent out any of the habitable space in the carriage house. Mr. Palomo replied that is an option in the zone district, however, it is not their primary consideration.

Councilmember Gutowsky requested clarification regarding the comments that the Code is outdated. Ms. White replied staff has acknowledged the 30-year-old NCB Code needs some revisions as it includes some oddities and contradictions. For example, Mr. Palomo noted a connecting breezeway between structures would eliminate all the size constraints.

Councilmember Gutowsky stated she was puzzled by the Hearing Officer's statement about not having the authority to grant the modifications on the basis of changed conditions and outdated Codes. Mr. Palomo replied he believes she was narrowly looking at the definition of a carriage home rather than the fact one could construct two carriage homes or one just as large with a connecting breezeway, both of which are allowed by existing Code.

Councilmember Gutowsky asked if the duplex proposal for the neighboring property has been approved. Ms. White replied the concept is allowed by Code, but she was unsure where it is in the development review process.

Councilmember Cunniff asked if a Hearing Officer is granted latitude to allow variances that are not supported by the Code when making a decision regarding compliance with Code. City Attorney Daggett replied a Hearing Officer, or any other decision-maker considering modification requests, is given a certain amount of authority to authorize applicants to deviate from the standards of the Code; however, there is a set of criteria that must be met in order for a modification to be approved: that it be found to not be detrimental to the public good and that it meets one of four other criteria. She stated the ability to approve modifications has been defined in a way that is intended to prevent the decision makers from making up their own rules.



Councilmember Cunniff asked how long it would take for a new Land Use Code provision to be implemented should Council want to change a provision. Sizemore replied it would depend on the extent of the amendments and it may just be a period of months for a smaller change or changes could be made as part of a larger group of changes with a more comprehensive view which could take upwards of a year.

Councilmember Cunniff noted Land Use Code amendments are not to be taken lightly and should not be dealt with in an ad hoc fashion. He also noted Council is acting in a quasi-judicial manner with respect to this appeal and should therefore consider only items on the record. He outlined the applicable limits of the Land Use Code and various modification requests to those limits. He acknowledged that other proposals may be visually less appealing; however, the Land Use Code outlines requirements and to change the Land Use Code requires a different process that should involve robust public outreach. He asked if floor area is the only determinant of building massing from a design perspective. Clark Mapes, City Planner, replied floor area is the main dimension that the Code uses to get at governing the volume of construction, the mass and scale of construction. He noted it works in combination with height limits as well.

Mayor Troxell asked if approving these modifications would set a precedent for other projects. City Attorney Daggett replied Council should focus on the question at hand, which is, did the Hearing Officer properly interpret and apply whether the project meets the standards equally well or better than the written standards. She stated the way Council articulates its decision in terms of the interpretation and application of that could have an effect on other projects because Council would be articulating its intent for how it would like to see decision makers consider this question about handling modifications from these standards. Mapes replied the findings would need to be carefully worded in order to make them specific to this case so as to not set a precedent.

Mayor Troxell asked where Arthur's Ditch is located in respect to the property. Mr. Palomo replied it is between the four-plex that is two lots to the south and 617 South Meldrum.

Councilmember Gutowsky mentioned the requirement that carriage houses remain subordinate to the primary dwelling and asked about the comparison of square footages for this project. Mr. Palomo replied his primary dwelling is about 1,200 square feet and he noted they do have the option to expand the primary structure but would like to keep it as is if possible.

Councilmember Gutowsky asked if the proposed square footage of the carriage house would exceed that of the primary structure. Mr. Palomo replied in the affirmative but noted attaching a breezeway would eliminate the carriage house square footage maximum.

Councilmember Gutowsky asked why the Hearing Officer did not find the proposal to be equally well or better than a complying proposal. Mr. Palomo replied his opinion is that it was a failure on her part to truly interpret the Code. He again noted a breezeway would eliminate all the requirements for which these modifications are requested and stated the existing Code encourages attaching to the existing historic home.

Councilmember Summers stated it is within Council's prerogative to look at what is judicious and reasonable on a case-by-case basis and he stated the proposal is not detrimental to the public good. He also stated the proposal will promote the general purpose of the standards for which the modifications are requested equally well or better than a complying proposal as it preserves the historic home. He stated the carriage house also fulfills a community need for additional housing

units and commented on existing large structures and the expressed neighborhood support for the project. He disagreed a precedent would be set as each case involves its own set of circumstances and he stated the appeal process exists so Council can have the opportunity to use its best judgement given particular situations.

Mayor Pro Tem Stephens asked if it would be possible for the applicants to rebuild on the site. Mapes replied in the negative as the home is an eligible historic landmark and protected resource.

Councilmember Pignataro agreed with Councilmember Summers that the submitted plan is better than what would be allowed by Code. She noted the area is a patchwork of different types of uses and stated the proposed plan is a creative way for the applicants to get the space they need.

Councilmember Summers made a motion, seconded by Councilmember Pignataro, that Council overturn the Hearing Officer's decision denying the five modifications of standards because the Hearing Officer failed to properly interpret and apply Land Use Code standards, that Council approve the modifications of standards finding that the five modifications are not detrimental to the public good and the plan submitted will promote the general purpose of the standards for which the modifications are requested equally well or better than would a plan which complies with the standards for which the modifications are requested. He added that complying with the Code as is would actually result in a larger, less aesthetically-pleasing structure that would potentially be detrimental to the adjoining properties because of the visual representation.

Mayor Pro Tem Stephens stated she understands the frustration with the decision and stated there are places in the Code that need to be changed; however, she shares Councilmember Cunniff's concerns about changing the Land Use Code on the fly. She also disagreed the Hearing Officer failed to interpret the Land Use Code.

Councilmember Cunniff agreed and stated this motion is legislating a Code change as part of the appeal and would be precedent-setting in that every future carriage house proposal in this zone district could be larger than specified by Code because Council would have determined that carriage houses are a better use of extended lots than duplexes or multi-family apartment buildings. He commented on two smaller carriage houses having less of a visual impact than one larger one.

Councilmember Pignataro asked if granting an exception to the Land Use Code automatically triggers the need for a change to the Code. City Attorney Daggett replied the modification process is intended to identify situations wherein it does not make sense to require strict compliance for the reasons specified; therefore the process is designed to allow for exceptions without having to change the Code.

Councilmember Cunniff expressed concern that while the process may not create a precedent, the motion may.

Councilmember Pignataro asked if a plan was submitted. City Attorney Daggett replied an overall plan has yet to be submitted, only the plan that relates specifically to these modifications.

Mayor Troxell requested staff articulate a path forward. Sizemore replied Council could restate or help to clarify or define what it believes to be the purpose of the standard.

Councilmember Cunniff asked what it would mean to approve or deny the appeal at this point in the process given a full development proposal has yet to be submitted. Assistant City Attorney

Brad Yatabe replied Council should view the granting of the modifications as providing the outside parameters for what the final plan could be. Should the modifications be denied, he stated he is not aware of any prohibition on the applicants submitting a plan that may ask for additional or similar modifications, though that may not be a fruitful path as they would have already been denied.

Councilmember Summers noted the Hearing Officer did find the modifications to not be detrimental to the public good and asked if the motion must state the Hearing Officer did not appropriately interpret the Land Use Code. City Attorney Daggett replied Council could find the Hearing Officer properly interpreted the requirements, but that she did not properly apply that interpretation to this particular proposal.

Mayor Troxell stated there is an intent behind each standard; therefore, a case must be made for each requested modification that the proposal is equally well or better than a complying plan.

Councilmember Cunniff stated upholding the Hearing Officer's decision does not create an opportunity for creating an ad hoc Land Use code amendment while allowing this applicant to submit a modification request with an associated compelling argument why it should be allowed.

Councilmember Gutowsky stated it appears the Hearing Officer applied a strict interpretation of the Land Use Code and was not willing to, or did not feel she had the authority to, deviate from that interpretation; therefore, stating she failed to properly interpret the Code would be inaccurate.

Councilmember Summers agreed with Councilmember Gutowsky on the wording, but suggested Council has the authority to make a finding different than that of the Hearing Officer. City Attorney Daggett noted it will be important to articulate what was improper about the Hearing Officer's decision should Council overturn the decision and suggested additional wording may improve the motion.

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

Councilmember Cunniff stated he would prefer an applicant to be able to propose a plan with a modification that proposes language as to why it meets the Code standards equally well or better than a complying plan and stated he may not be able to support the motion with the adjusted language.

Councilmember Gorgol agreed with Councilmember Cunniff that the Land Use Code was upheld in this decision. She acknowledged there are discrepancies between City Plan and zoning standards and stated this is a reason why moving forward with a Land Use Code audit is important. She stated there needs to be justification why these modifications will result in a plan that is equally well or better than a complying plan.

Mayor Pro Tem Stephens also agreed.

Councilmember Gutowsky stated the site visit helped her with perspective as she was able to see what other buildings are in the area in terms of massing. She agreed the carriage house will not likely be visible from the sidewalk given the proximity of the sidewalk to the primary home. She stated she would support granting the modifications.

City Attorney Daggett provided some substitute language that states the Hearing Officer's denial is being overturned and Council is approving the modifications finding that they are not detrimental to the public good and the modifications as submitted will promote the general purpose of the standards for which the modifications are requested equally well or better than would compliance with the standard for which the modifications are requested because the interpretation of the equally well or better than standard to these proposed modifications did not consider the massing, size, and visual impacts in the context of the particular location and the stated purposes of the zone district.

Mayor Troxell noted a full plan has yet to be submitted. Sizemore replied the best way to approach this plan is that a development application is not in place; however, there is a plan for these five modifications, which is in the submitted materials for the modification request to illustrate it enough to get it before the Hearing Officer. Mapes stated applications for stand-alone modifications are not uncommon and staff tells applicants to provide whatever is needed to adequately evaluate the modification request without an official development plan submittal.

Mayor Troxell asked if staff received everything it needed to show a case was made for the massing, size, and visual impacts of this proposal in the context of the zone district. Mapes replied Planning staff found the provided materials were adequate to evaluate the requests for modification and that they represent an approach to design upon which the modifications would be based.

Councilmember Summers made a motion, seconded by Councilmember Pignataro, to replace his original motion with the language as provided by City Attorney Daggett and further moved that, except as stated based on the evidence in the record and as presented at this hearing, any other issues raised in the appeal are hereby found to be without merit and are denied.

Councilmember Cunniff stated he would not support the motion as he believes the proper way to do this is to validate the Land Use Code and refer to the fact that a specific plan could in fact get variances from the Land Use Code if it can meet the justification of being better in a specific set of ways.

Mayor Troxell asked if this application, once submitted, will be examined for compliance with the modifications. Mapes replied staff would evaluate a development plan in regard to the Land Use Code, but would find that these five standards have already been modified.

<b>RESULT:</b>	<b>APPEAL ADOPTED [4 TO 3]</b>
<b>MOVER:</b>	Ken Summers, District 3
<b>SECONDER:</b>	Julie Pignataro, District 2
<b>AYES:</b>	Pignataro, Gutowsky, Summers, Troxell
<b>NAYS:</b>	Gorgol, Stephens, Cunniff

Motion to Suspend the Rules to Extend the Meeting.

Mayor Pro Tem Stephens made a motion, seconded by Councilmember Cunniff, to suspend the rules to continue the meeting past midnight.

<b>RESULT:</b>	<b>MOTION ADOPTED [6 TO 1]</b>
<b>MOVER:</b>	Kristin Stephens, District 4
<b>SECONDER:</b>	Ross Cunniff, District 5
<b>AYES:</b>	Pignataro, Gorgol, Gutowsky, Stephens, Troxell, Cunniff
<b>NAYS:</b>	Summers

● **OTHER BUSINESS**

Consider a motion to move the regular Council meeting scheduled for 6:00 pm on Tuesday, November 3, 2020, to 6:00 pm on Wednesday, November 4, 2020, due to the General Election.

Mayor Pro Tem Stephens made a motion, seconded by Councilmember Cunniff, that the regular Council meeting scheduled for Tuesday, November 3, 2020, be moved to Wednesday, November 4, 2020, pursuant to City Code Section 2-28(a), because November 3 is the day of the General Election.

<b>RESULT:</b>	<b>MOTION ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Kristin Stephens, District 4
<b>SECONDER:</b>	Ross Cunniff, District 5
<b>AYES:</b>	Pignataro, Gorgol, Gutowsky, Summers, Stephens, Troxell, Cunniff

Motion to go into Executive Session

Mayor Pro Tem Stephens recused herself from the Executive Session due to ongoing ethics investigations.

Councilmember Cunniff made a motion, seconded by Councilmember Gorgol, that Council go into executive session for the purpose of discussing the Hughes Stadium property with City staff and the City's attorneys, and particularly to discuss:

1. Real property acquisition and disposition related to the Hughes Stadium property, as permitted under:
  - City Charter Article Roman Numeral Two, Section 11(3),
  - Section 2-31(a)(3) of the City Code and
  - Colorado Revised Statutes Section 24-6-402(4)(a); and
2. Specific legal questions related to potential litigation regarding the Hughes Stadium property and the manner in which the particular policies, practices or regulations of the City related to the acquisition or development of the Hughes Stadium property may be affected by existing or proposed provisions of federal, state or local law, 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).

Rory Heath requested Mayor Troxell recuse himself from this Executive Session.

Kathryn Dubiel stated this type of Executive Session contributes to a continued erosion of public trust in this process. She asked if this Executive Session is reactionary on the part of Council or is actually intended to discuss matters that are in process. She further inquired if the City Manager

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will be bringing up this topic with the Board of Governors on Friday and noted a citizen-initiated ordinance is being circulated for the certification and placement on the April 2021 municipal ballot.

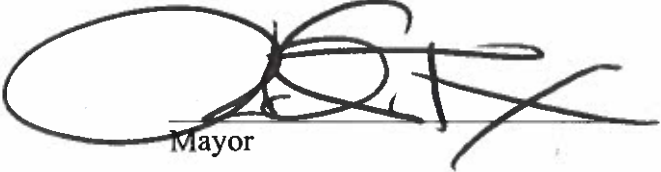
Mayor Troxell stated he has had multiple reviews of his ethical involvement in this issue and has no personal or financial interest and will therefore not be recusing himself.

City Manager Atteberry stated he has not seen an agenda for the Board of Governors meeting and does not plan on attending.

<b>RESULT:</b>	<b>MOTION ADOPTED [6 TO 0]</b>
<b>MOVER:</b>	Ross Cunniff, District 5
<b>SECONDER:</b>	Emily Gorgol, District 6
<b>AYES:</b>	Pignataro, Gorgol, Gutowsky, Summers, Troxell, Cunniff
<b>RECUSED:</b>	Stephens

● **ADJOURNMENT**

The meeting adjourned at 1:55 AM.



Mayor

ATTEST:



City Clerk

