

October 20, 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: Atteberry, Daggett, Knoll

● **AGENDA REVIEW: CITY MANAGER**

City Manager Atteberry stated there will be two community reports this evening as well as a staff report on the Cameron Peak fire. Additionally, Council will consider a motion to adjourn to October 27 to allow consideration of an Emergency Ordinance regarding a day shelter location.

● **STAFF REPORTS**

A. COVID-19 Update: Tom Gonzales, Larimer County Public Health Director

Tom Gonzales, Larimer County Public Health Director, discussed the ongoing increase in COVID-19 cases in the County. He stated the County is in jeopardy of losing its level 1 status based on current trends and he urged the community to be diligent and do the right things to lower the numbers and to avoid overwhelming hospitals. He discussed the metrics utilized on the County dashboard and noted ICU utilization is up, though not all patients are from Colorado and not all are COVID patients.

Mr. Gonzales discussed the increased testing capacity and noted contact tracing is critical for preventing the spread of the virus. He discussed the importance of people answering contact tracers' questions and quarantining if necessary. He discussed age-related data and symptoms noting masks and social distancing are important to avoid asymptomatic spread.

Mr. Gonzales discussed the County's plan submitted to the state and stated case numbers must go down in order for the County to keep its level 1 status. He urged citizens to wear their face coverings, keep small social bubbles, cooperate with contact tracers, and keep social distancing.

Mayor Troxell commented on the importance of following guidelines to keep Fort Collins businesses open.

Mayor Pro Tem Stephens asked about the timing of test results. Mr. Gonzales replied about 70% of test results are being turned around in 48 hours.

Mayor Pro Tem Stephens asked what will happen to schools if the County loses its level 1 status. Mr. Gonzales replied the state recommendation is to continue the hybrid approach in level 2 status; however, the state recommendation would be for all remote learning if the County were to move to level 3 status.

Councilmember Summers asked how often individuals should get tested for COVID. Mr. Gonzales replied individuals should get tested if they receive a call from a contact tracer that they may have been in close contact with someone who tested positive, if they are showing any

symptoms, or if recommended for a retest depending on a quarantine status. He noted more high-risk populations are getting tested more regularly.

Councilmember Summers asked if there has been any consideration of having testing available in doctor's offices or other locations. Mr. Gonzales replied UC Health and Banner have drive-through testing sites and there is testing available at all urgent care clinics. Additionally, Salud offers testing in Fort Collins and Estes Park on certain days and Kaiser offers testing.

Councilmember Summers asked about the goal metrics for measuring success in this instance. Mr. Gonzales replied there are three major metrics the state is tracking: the 14-day case rate per 100,000 residents which has a goal of under 75 to be in level 1, the test positive percentage which has a goal of under 5%, and a stabilized or declining number of cases being treated in the hospital.

Councilmember Summers asked when the pandemic could be declared 'over' from a metrics perspective. Mr. Gonzales replied the 14-day case rate per 100,000 would need to be below 25 and no patients would be in the hospital. He stated that will only likely occur with a widely available vaccine.

Councilmember Summers asked about the 14-day case rate per 100,000 for the seasonal flu. Mr. Gonzales replied that number is well below 50 per 100,000 and the flu has always been categorized by hospitalizations.

Councilmember Pignataro thanked Mr. Gonzales for his report and asked, given that one in four positive test results are from asymptomatic individuals, is there a recommendation that individuals without symptoms get tested. Mr. Gonzales replied individuals identified as close contacts should definitely get tested.

Councilmember Pignataro requested Mr. Gonzales review the five levels provided by the state. Mr. Gonzales outlined the levels and their associated metrics.

Councilmember Gorgol asked about recommendations for trick-or-treating. Mr. Gonzales replied the state has provided some guidance recommending against close contact, encouraging face coverings, and avoiding large groups. Children should also ensure they wash and sanitize their hands frequently. He commented on the uptick in cases that occurs after each holiday.

Councilmember Gutowsky asked about recommendations for Thanksgiving. Mr. Gonzales replied current recommendations are for small bubble gatherings only, outdoors as much as possible.

Councilmember Gutowsky asked about the possibility of an individual getting COVID twice. Mr. Gonzales replied there have been isolated cases of that occurring and the science shows individuals have at least 90 days of antibodies.

Councilmember Cunniff thanked Mr. Gonzales for his presentation and encouraged citizens to listen to the advice for lowering the case numbers.

B. Election Security Report: Angela Myers, Larimer County Clerk and Recorder

Angela Myers, Larimer County Clerk and Recorder, urged citizens to avoid listening to the noise around election security issues.

Mayor Pro Tem Stephens asked about ballot box obstruction rumors at 200 West Oak and how people can report issues of voter intimidation. Ms. Myers replied there was a group that gathered

in front of the courthouse on October 11th in an effort to communicate with the Commissioners and the group happened to be right near the ballot drop box. The individuals were not facing or surrounding the ballot box. She noted all drop boxes are under 24/7 camera surveillance and she encouraged anyone to call her directly should issues arise. She noted there are 18 drop boxes across the County, all have 100-foot markers, and many are drive-up.

Councilmember Cunniff commented on Larimer County always being a leader in ballot processing. He asked if the need for election judges remains. Ms. Myers replied more than 2,000 election judges signed up and around 675 will be utilized. She encouraged all citizens to sign up.

Councilmember Gutowsky commented on her experience as an election judge and commended the state and county election process.

Ms. Myers discussed the secure, bipartisan process for collecting ballots from drop boxes and getting them to the processing facility.

Mayor Troxell commended the County's election process.

Ms. Myers thanked City Clerk Coldiron for her collaboration.

- **PUBLIC COMMENT**

Mayor Troxell and Chief Deputy City Clerk Knoll outlined the options for public participation.

Kyle Kumjian, Associated Students of Colorado State University (ASCSU) Director of Community Affairs, introduced the new ASCSU president, Hannah Taylor, and discussed the importance of working with the City on shared goals.

Hannah Taylor, ASCSU President, stated ASCSU looks forward to working with the City.

Rory Heath stated there have been systemic errors in the negotiations between the City and CSU for the acquisition of the Hughes Stadium property. He questioned the amount of power City Manager Atteberry seemed to have in the negotiations noting he is not an elected official. He also opposed the role of Mayor Troxell, a CSU employee, in decisions related to the property.

Dr. Jacob Jobe discussed noise pollution in Fort Collins, specifically as it relates to traffic and vehicles with modified exhaust systems. He encouraged the formation of laws that limit or prohibit the use of engine breaking by large trucks and vehicles, specifically construction vehicles.

Paul Patterson discussed the Hughes Stadium property noting the choices made for its use will impact the population for generations to come. He read a letter from a Maxwell family descendent written in May 2020.

Kathryn Dubiel noted there is a citizen initiative seeking signatures regarding the use of the Hughes Stadium property and she questioned why that fact was not discussed at the recent Council work session. She asked if the citizen initiative was discussed with CSU.

Eric Sutherland stated there is no ambiguity in the state law regarding whether Council has the authority to go into Executive Session to discuss competition with a private enterprise. He stated citizens have the right to hear those discussions.

Mary Alice Grant opposed the way the Hughes Stadium issue has been handled stating there has been a total lack of transparency. She stated Council should be paying attention to the community's wishes and should be more transparent regarding conversations with the University.

● **PUBLIC COMMENT FOLLOW-UP**

Mayor Troxell reviewed the citizen comments. He reiterated his employment with CSU has nothing to do with property acquisition or disbursement. He encouraged those with concerns about the property to discuss them with the CSU Board of Governors.

Councilmember Cunniff noted Council had scheduled a potential work session in September to have a discussion with CSU; however, CSU did not wish to participate in a public discussion at that time. He noted it has always been the practice of Council to delegate property acquisition negotiations to staff. Additionally, Council does not hold property acquisition talks publicly because of its need to protect the financial interest of taxpayers and Council is authorized by Charter to have Executive Sessions around land acquisition topics. He commented on the process for citizen initiatives and stated it is not appropriate for Council to address that at length.

Councilmember Cunniff stated Council is going into Executive Session regarding Connexion as it is not close enough to build out for Council to want to broadcast next steps in building out the network.

City Manager Atteberry stated he has asked Dr. Tony Frank if he was aware of the citizen initiative, and he replied in the affirmative. He stated he did not have any detailed conversations with Dr. Frank about the topic.

Mayor Pro Tem Stephens thanked Mr. Kumjian and Ms. Little for introducing themselves and stated she looks forward to working with ASCSU. She encouraged Dr. Jobe to send an email to Council regarding his concerns.

● **CONSENT CALENDAR**

Mayor Pro Tem Stephens made a motion, seconded by Councilmember Gorgol, to adopt and approve all items on the Consent Agenda.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Kristin Stephens, District 4
SECONDER:	Emily Gorgol, District 6
AYES:	Pignataro, Gorgol, Gutowsky, Summers, Stephens, Troxell, Cunniff

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

- A. Second Reading of Ordinance No. 117, 2020, Appropriating Additional Revenue and Authorizing Transfers of Appropriations in Various City Funds.
- B. Second Reading of Ordinance No. 118, 2020, Appropriating Prior Year Reserves and Authorizing Transfers of Appropriations in Various City Funds.

These Ordinances, unanimously adopted on First Reading on October 6, 2020, 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.

Between First and Second Reading of Ordinance No. 117, 2020, its recitals and Section 2.F.1. have been revised to clarify that the \$1.4 million transfer in the Transportation Capital Expansion Fee Fund from lapsing to non-lapsing business units will be used to reimburse the developers of two different projects who installed the following transportation improvements identified in the City's Master Street Plan: (i) Mountain's Edge development constructing a sidewalk and new right turn and merging lane at Drake Road and Overland Trail Road, and (ii) Crowne at Old Town North development constructing portions of Suniga Road and Jerome Street and oversizing a sidewalk on Conifer Street.

2. **Second 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. (Adopted)**

This Ordinance, unanimously adopted on First Reading on October 6, 2020, clarifies existing City Code language guiding enforcement, prosecution, and Municipal Court regarding violations and penalties for animal disturbance and dangerous animals in the City.

Staff made modifications between First and Second Reading to incorporate a civil rather than a criminal process regarding the dangerous animal permit. The Judge's declaration of a dangerous animal requiring a permanent dangerous animal permit will become a civil order of the court, because the length of jurisdiction in such cases exceeds the court's criminal jurisdiction. Further, after 36 months, and no further animal violations, the owner or keeper of the dangerous animal may prove to the court at a civil hearing by clear and convincing evidence that the animal is no longer dangerous and/or should no longer be subject to certain permit requirements.

3. **Second 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)**

This item, unanimously adopted on First Reading on October 6, 2020, corrects a long-standing error in Section 7-134 relating to the registration of committees prior to accepting any contributions or making any expenditures.

4. **Second 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.

This Ordinance, unanimously adopted on First Reading on October 6, 2020, amends 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.

5. **Second 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)**

This Ordinance, unanimously adopted on October 6, 2020, authorizes 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.

6. **First Reading of Ordinance No. 125, 2020, Extending Short-Term Appointments to City Boards and Commissions to December 31, 2021. (Adopted)**

The purpose of this item is to allow Council to extend the one-year interim appointments to advisory boards and commissions that were adopted under Ordinance No. 153, 2019 and are currently set to expire on December 31, 2020. Due to COVID-19, the Reimagine Boards and Commissions public engagement efforts and Council Work Session were delayed resulting in a later implementation timeline, including potential changes to term lengths. This Ordinance would extend these short-term appointments for one additional year with an expiration date of December 31, 2021. This will reduce the number of appointments that need to be filled this year and will allow staff additional time to create a thorough implementation strategy for potential changes due to the Reimagine Boards and Commissions Priority 2021.

7. **Resolution 2020-093 Authorizing Certain Quasi-Judicial Land Use Hearings to be Conducted Remotely Pursuant to Ordinance No. 079, 2020. (Adopted)**

The purpose of this item is to consider three exceptions to Ordinance No. 079, 2020, adopted by Council on June 16, 2020, to allow one zoning and two Additions of Permitted Use items to proceed to public hearings using remote technology.

Ordinance No. 079, 2020, authorizes Council and boards and commissions such as the Planning & Zoning Board (P&Z) to hear quasi-judicial items but specifically ***excludes from that authorization*** decisions related to zoning/rezoning, appeals, and the addition of permitted uses. Ordinance No. 079, 2020, does, however, allow Council, by motion adopted by at least five Councilmembers, to authorize exceptions to such exclusion. To authorize remote hearings for the listed items, Council must find that such hearings are pressing and require prompt action and that virtual technology will provide for sufficient public participation and input. Staff is requesting that Council allow the following quasi-judicial items (collectively, the "Exception Requests") to be heard remotely:

Zoning:

1. Springer-Fischer Annexation initial Zoning (*in review and awaiting P&Z recommendation and Council final determination*)

Addition of Permitted Use (APU)

2. East Park District Maintenance Facility Addition of Permitted Use (*Urban Estate District, in review and awaiting P&Z recommendation and Council final determination*)

3. Timberline-International Addition of Permitted Use (*Industrial District, in review and awaiting P&Z final decision, no Council decision required except in case of an appeal*)

8. **Resolution 2020-094 Authorizing a Partial Reassignment of the City's 2020 Private Activity Bond Allocation from Mercy Housing to Housing Catalyst. (Adopted)**

Based on direction from the State, the purpose of this Resolution is to reassign \$5 million in Private Activity Bond (PAB) capacity from Mercy Housing to Housing Catalyst. This reassignment conforms with the State's requirement that all PABs are assigned to entities that have issuing authority. There is no impact on the project's outcome or the City due to this reassignment.

9. **Resolution 2020-095 Supporting the Grant Application by Fort Collins Utilities for the United States Department of the Interior, Bureau of Reclamation's WaterSMART Grants: Water and Energy Efficiency Grant for Fiscal Year 2021 and Authorizing the City Manager to Execute Agreements Regarding Such a Grant. (Adopted)**

The purpose of this item is to request Council support for Fort Collins Utilities' pursuit of a United States Bureau of Reclamation ("Reclamation") Water and Energy Efficiency Grant for Fiscal Year 2021 ("WaterSMART Grant"). If awarded, Fort Collins Utilities, through its Water Conservation Division ("Water Conservation"), would use the funds to support commercial-scale waterwise transformations in partnership with homeowners' associations ("HOAs") and commercial customers. Reclamation requires a resolution of Council support be submitted as part of the grant application package. The Resolution demonstrates that the applicant has support from its board to carry out the grant agreement, if awarded.

10. **Resolution 2020-096 Approving the Acceptance of the Proposed Donation of a Sculpture to be Placed at Sugar Beet Park. (Adopted)**

This Resolution accepts the donation of a bronze sculpture entitled, *The Hand That Feeds*, that will be placed at Sugar Beet Park, subject to the donor raising sufficient funds to pay for the sculpture and related project work.

- **CONSENT CALENDAR FOLLOW-UP**

Councilmember Cunniff commented on Item No. 6, *First Reading of Ordinance No. 125, 2020, Extending Short-Term Appointments to City Boards and Commissions to December 31, 2021*, noting the extension is due to workload issues. He stated he would support extending them further and requested additional information prior to Second Reading.

Councilmember Gutowsky commented on Item No. 10, *Resolution 2020-096 Approving the Acceptance of the Proposed Donation of a Sculpture to be Placed at Sugar Beet Park*, stating the sculpture will be an excellent addition to Sugar Beet Park. She noted the sculpture will be funded entirely by the community.

Councilmember Pignataro stated she too is looking forward to seeing the sculpture being built per Item No. 10, *Resolution 2020-096 Approving the Acceptance of the Proposed Donation of a Sculpture to be Placed at Sugar Beet Park*. Regarding Item No. 6, *First Reading of Ordinance No. 125, 2020, Extending Short-Term Appointments to City Boards and Commissions to December 31, 2021*, she stated some appointees were interested because of the short terms and stated she would like to see information related to how many open positions exist and how to ensure this does not occur again next fall with interviews not being able to happen due to workload.

● **STAFF REPORT ON CAMERON PEAK FIRE**

Tom DeMint, Poudre Fire Authority Chief, discussed the growth of the Cameron Peak fire and subsequent spot fires over the weekend noting the main objectives were to protect homes and critical infrastructure and to keep the fire on the western edge of 25E. He showed some satellite images and photos and discussed future goals of the incident management team. He noted a solid wetting storm with days of moisture will be necessary to entirely suppress the fire.

Jim Byrne, Director of Emergency Preparedness and Safety, discussed the significant impact of the fire on the Bobcat Ridge Natural Area and stated the Poudre Canyon has started to open up again; however, the Big Thompson watershed is now potentially being impacted. He noted there are other fires burning throughout the state and noted supporting fire efforts of regional partners benefits the community.

Mayor Pro Tem Stephens thanked Chief DeMint, Lieutenant Byrne, and firefighters for their constant work to protect structures and the community. She discussed ways community members can provide assistance.

Mayor Troxell also thanked the team members for the work to protect the community. He asked what is being done to help protect City assets that may be in the direct line of the fire depending on conditions. Chief DeMint discussed the forecasting and staffing plan moving forward noting there is moisture and cooler weather in the upcoming forecast. Lieutenant Byrne replied it is very unlikely the fire would reach Fort Collins assets; however, protection plans have been made.

Mayor Troxell asked if there have been discussions around deploying any staff from Parks or Natural Areas to assist in clearing. Lieutenant Byrne replied those discussions and plans have begun and noted there would be significant warning if mitigation were to be needed on City property.

● **COUNCILMEMBER REPORTS**

Councilmember Gutowsky reported on visiting the site of a new mural in the alley off Mountain Avenue that was designed based on conversations and interviews with Poudre School District schools and teachers, Native American friends of Trees, Water, and People, among others. She stated the goal of the piece was to increase understanding and positive interactions between cultures in Fort Collins. She thanked the City Manager for his report at last week's work session regarding the Hugues Stadium property and stated she was disappointed with the statement that the Board of Governors made regarding exercising their fiduciary responsibility to do what is best for taxpayers.

Mayor Troxell reported on a meeting between the Cities of Fort Collins and Loveland and the Northern Colorado Regional Airport discussing a number of items related to the Airport and the co-located law enforcement training facility. He discussed the forthcoming remote tower and initial design of the terminal building.

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

● **DISCUSSION ITEMS**

11. **Second Reading of Ordinance No. 119, Amending Section 4-94 of the Code of the City of Fort Collins Regarding Animal Disturbance of Peace and Quiet. (Adopted on Second Reading)**

This Ordinance, adopted on First Reading on October 6, 2020 by a split vote of 5-2 (Nays: Pignataro and Summers), clarifies existing City Code language guiding enforcement, prosecution, and Municipal Court regarding violations and penalties for animal disturbance and dangerous animals in the City.

Marcy Yoder, Neighborhood Services Manager, noted Larimer Humane Society and Neighborhood Services both work from a premise of starting with education and outreach working toward voluntary compliance before moving forward with any enforcement actions. She noted there are resources available from both entities for citizens attempting to work with each other to solve pet disturbance issues. She discussed ways in which neighbors could file a complaint, the resulting process, and possible outcomes of a court case.

Craig Lynn stated he has received five complaints against his dogs since February of 2018 and only recently discovered he could get the information on the complainant's name and address from the Humane Society. Once he got that information, he paid the fees and took the first steps to address the situation with the neighbor. He suggested there should be a change as to how the first encounter is handled to ensure both parties have the opportunity to have a conversation prior to official warnings being issued. He also requested the ordinance clearly define and list measurable durations for barking.

Councilmember Pignataro thanked Mr. Lynn for his comments and suggested the Humane Society website contain a link to Neighborhood Services contact information. She stated anonymity could lead to passive-aggressive behavior between neighbors. Rigo Neira, Larimer Humane Society, replied there may be some better verbiage and instructions that could be included on the website. He noted any individual wanting to file a complaint for a warning to be issued has to be willing to provide their name, address, and full description of the issue. He also noted the ordinance does not require a warning to be issued.

Councilmember Pignataro asked if there is a database of complaints. Mr. Neira replied in the affirmative.

Councilmember Pignataro suggested research be done on including more quantitative requirements; however, she stated she is comfortable with the tools in place regarding both parties having rights.

Councilmember Summers commented on ensuring parties have the opportunity to work through issues sooner than later. He questioned the legal process around complaints. City Attorney Daggett replied the officer issuing a citation would evaluate circumstances and facts presented before a citation is issued, and the prosecutor subsequently provides a review ensuring the basis for the complaint is adequate. Should a matter go to trial, the judge determines whether the standard in the Code has been met. She noted the complainant needs to be involved if a case goes to trial.

Councilmember Summers asked about the court fine schedule. Bronwyn Scurlock, Assistant City Attorney, replied the fines have been adopted by the court; however, they can be increased.

Councilmember Summers questioned the fairness of a \$175 fine for two violations separated by almost a year. City Attorney Daggett clarified the referenced fines are court-imposed and are not necessarily the penalty that someone will pay in connection with an offense.

Councilmember Summers stated he would prefer to see a required mediation process prior to any fine being issued.

Councilmember Cunniff made a motion, seconded by Councilmember Gutowsky, to adopt Ordinance No. 119, 2020, on Second Reading.

Councilmember Cunniff stated he appreciates the concerns mentioned, but noted there are other cases in which pet owners are actively hostile. He stated this ordinance strikes a fair balance and he will support it.

Councilmember Summers stated the ordinance is an improvement over what currently exists and he encouraged the Humane Society and Neighborhood Services to heed the comments and to provide facilitation where issues can be resolved.

RESULT:	ORDINANCE NO. 119, 2020 ADOPTED ON SECOND READING [UNANIMOUS]
MOVER:	Ross Cunniff, District 5
SECONDER:	Susan Gutowsky, District 1
AYES:	Pignataro, Gorgol, Gutowsky, Summers, Stephens, Troxell, Cunniff

12. Resolution 2020-097 Authorizing Remote Quasi-Judicial Hearings for Certain Appeals Pursuant to City Code Section 2-119(4), to the Building Review Board Pursuant to Ordinance No. 079, 2020. (Adopted)

The purpose of this item is to consider an exception to Ordinance No. 079, 2020 to allow one of the following items to proceed using remote technology:

- 1. All "appeals" to the Building Review Board (BRB) arising from City Code Section 2-119(4); or in the alternative, if Council prefers to address pending requests for such "appeals" on a case-by-case basis.**
- 2. Appeal of a decision of the Building Official to deny a request to waive the exam requirements for a license to Matt Tschetter of Luxury Homes of N. CO by motion (the "Pending Appeal Request").**

*Ordinance No. 079, 2020 adopted by Council on June 16, 2020, authorizes Council, Planning & Zoning Board (P&Z), the Landmark Preservation Commission (LPC) and the Building Review Board (BRB) to hear quasi-judicial items but specifically **excludes appeals from that authorization**. The Ordinance does, however, allow Council, by motion adopted by at least five Councilmembers, to authorize exceptions to that exclusion. To authorize remote hearings for the listed items, Council must find that such hearings are pressing and require prompt action and that virtual technology will provide for sufficient public participation and input.*

Rich Anderson, Chief Building Official, stated the purpose of this item is to allow one of the following items to proceed using remote technology: all appeals to the Building Review Board arising from City Code Section 2-119(4), or, a specific appeal of a decision of the Building Official to deny a request to waive the exam requirements for a specific license holder. Staff is confident remote technology will provide a sufficient opportunity for public participation for all of the items.

Councilmember Pignataro asked how the option for the appellant to wait for an in-person hearing is being communicated to appellants. Anderson replied staff is in contact with all appellants regarding their options and noted remote technology assistance is provided if needed.

Claire Havelda, City Attorney's Office, noted all appellants are asked on the record of the hearings if they are comfortable having the issue heard using remote technology.

Mayor Pro Tem Stephens made a motion, seconded by Councilmember Cunniff, to adopt Resolution 2020-097, to allow all appeals to the Building Review Board arising from City Code Section 2-119(4) to be heard using remote technology.

Councilmember Cunniff noted this is a safe way to continue doing business during COVID.

Mayor Pro Tem Stephens noted these issues seem to be non-controversial and remote technology will provide proper participation opportunities.

RESULT:	RESOLUTION 2020-097_ADOPTED [UNANIMOUS]
MOVER:	Kristin Stephens, District 4
SECONDER:	Ross Cunniff, District 5
AYES:	Pignataro, Gorgol, Gutowsky, Summers, Stephens, Troxell, Cunniff

13. **Resolution 2020-098 Making Findings of Fact and Conclusions of Law Regarding the Appeal of the Hearing Officer Decision Denying the Modification of Standards Request for 613 South Meldrum Street, MOD 200001. (Adopted)**

The purpose of this item is to make Findings of Fact and Conclusions regarding the appeal of the Hearing Officer decision to deny the 613 South Meldrum Modifications of Standards. The appeal was heard by Council on October 6, 2020.

Mayor Pro Tem Stephens made a motion, seconded by Councilmember Summers, to adopt Resolution 2020-098.

Councilmember Cunniff stated he will not be supporting this motion as he is concerned about the use of adjacent massing and visual impacts which can lead to creeping rezoning.

Mayor Pro Tem Stephens stated she will support this item as it is a finding of fact, though she does agree with Councilmember Cunniff's comments.

RESULT:	RESOLUTION 2020-098_ADOPTED [6 TO 1]
MOVER:	Kristin Stephens, District 4
SECONDER:	Ken Summers, District 3
AYES:	Pignataro, Gorgol, Gutowsky, Summers, Stephens, Troxell
NAYS:	Cunniff

● **OTHER BUSINESS**

Consideration of a motion to adjourn into executive session to discuss Broadband issues.

Mayor Pro Tem Stephens made a motion, seconded by Councilmember Gorgol, that Council go into executive session to consider matters pertaining to issues of competition in providing telecommunication facilities and services including matters subject to negotiation, strategic plan, price, sales and marketing, development phasing and any other matter allowed under Colorado

Law, as permitted under Article XX, Section 7(d) of the City Charter and Section 2-31(a)(5) of the City Code.

RESULT: MOTION ADOPTED [UNANIMOUS]
MOVER: Kristin Stephens, District 4
SECONDER: Emily Gorgol, District 6
AYES: Pignataro, Gorgol, Gutowsky, Summers, Stephens, Troxell, Cunniff

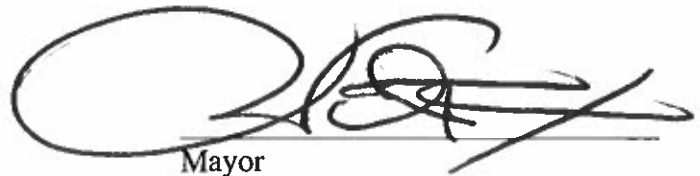
● **ADJOURNMENT**

Consideration of a motion to adjourn until 6:00 p.m. on Tuesday, October 27, 2020.

Mayor Pro Tem Stephens made a motion, seconded by Councilmember Gorgol, to adjourn to 6:00 PM on Tuesday, October 27, 2020, to consider an ordinance related to an inclement weather day shelter.

RESULT: MOTION ADOPTED [6 TO 0]
MOVER: Kristin Stephens, District 4
SECONDER: Emily Gorgol, District 6
AYES: Pignataro, Gorgol, Gutowsky, Stephens, Troxell, Cunniff
AWAY: Summers

The meeting adjourned at 10:52 PM.


Mayor

ATTEST:


City Clerk

