

November 17, 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, all Councilmembers, staff, and citizens attended the meeting remotely, via teleconference.)

● **ROLL CALL**

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

● **AGENDA REVIEW: CITY MANAGER**

City Manager Atteberry noted there will be no opportunity for in-person public participation at this meeting due to increasing COVID concerns; therefore, Council will need to consider a motion to authorize Item No. 16, *Public Hearing and First Reading of Ordinance No. 145, 2020 Amending the Zoning Map of the City of Fort Collins by Changing the Zoning Classification for that Certain Property Known as the Timberline Church Rezoning*, to proceed remotely without an option for in-person participation if Council wishes to move forward with the item this evening. He noted the applicant has no objection to the change.

City Manager Atteberry stated Item No. 13, *Items Relating to a Citizen-Initiated Petition Relating to the Hughes Stadium Property*, was changed to reflect information related to a protest that was filed and then withdrawn. Additionally, he noted the remaining Council meetings for 2020 have been shifted to a remote-only format and Council will consider a motion to adjourn to November 24, 2020 in order to accommodate follow-up items for Council's consideration.

Consideration of a motion to authorize Item No. 16, Public Hearing and First Reading of Ordinance No. 145, 2020 Amending the Zoning Map of the City of Fort Collins by Changing the Zoning Classification for that Certain Property Known as the Timberline Church Rezoning, to proceed using Remote Technology without the option for in-person participation:

Mayor Pro Tem Stephens made a motion, seconded by Councilmember Gutowsky, that City Council find the Timberline Church rezoning, scheduled for consideration on tonight's agenda as item number 16, is pressing and requires prompt action and further find that virtual technology will provide due process to hear that matter through sufficient public participation and input, and based upon such findings authorize a Quasi-Judicial Hearing using Remote Technology by the City Council to proceed in that matter pursuant to Section 8 of Ordinance No. 079, 2020.

RESULT:	MOTION ADOPTED [UNANIMOUS]
MOVER:	Kristin Stephens, District 4
SECONDER:	Susan Gutowsky, District 1
AYES:	Pignataro, Gorgol, Gutowsky, Summers, Stephens, Troxell, Cunniff

● **PUBLIC COMMENT**

Mayor Troxell outlined the public participation options.

Tamara Muir expressed concern about the lack of a sustainable plan for home-like long-term care facilities and stated individuals with COVID need to be immediately removed from those settings to prevent spread. She questioned whether Council has had discussions about a management strategy for opening some type of care facility for those patients.

Rory Heath commented on COVID testing reservations being full and requested Mayor Troxell and Mayor Pro Tem Stephens recuse themselves from the discussion of Item No. 13, *Items Relating to a Citizen-Initiated Petition Relating to the Hughes Stadium Property*.

Rich Stave commented on the Energy Board's discussion related to Item No. 8, *Second Reading of Ordinance No. 141, 2020, Approving the Administrative Rules, Regulations and Standards for the Riverside Community Solar Program*. He questioned liability and insurance issues related to individuals' purchasing of solar panels.

● **PUBLIC COMMENT FOLLOW-UP**

Mayor Troxell summarized the citizen comments. He noted the City is working closely with the County and State regarding COVID procedures and requested additional staff input on the topic. Jim Byrne, Emergency Preparedness and Security, replied County Health has a working group specific to residential care facilities and he will provide additional information after doing some research.

Mayor Troxell requested staff address Mr. Stave's questions regarding community solar.

Theresa Connor, Interim Utilities Director, noted Council was provided a memo related to the Energy Board discussion.

John Phelan, Utilities, noted the Energy Board brought up how to manage a potential risk of partial damage to the location. He noted Leeland Keller, Solar Garden Project Manager, met with the City's Risk Management staff to identify a path forward wherein the City can procure a comprehensive insurance option for the customer-owned panels using the project's existing operations and maintenance fund. He noted staff will be doing a detailed assessment of operations and maintenance cost requirements during the next five years of extended warranty.

● **CONSENT CALENDAR**

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

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

1. **Consideration and Approval of the Minutes of the October 6, 2020 Regular Council Meeting. (Adopted)**

The purpose of this item is for consideration and approval of the minutes of the October 6, 2020 Regular Council Meeting.

2. **Second Reading of Ordinance No. 127, 2020, Adopting the 2021 Budget and Appropriating the Fort Collins Share of the 2021 Fiscal Year Operating and Capital Improvements Funds for the Northern Colorado Regional Airport. (Adopted)**

This Ordinance, unanimously adopted on First Reading on November 4, 2020, appropriates Fort Collins' share of the 2021 fiscal year operating and capital funds for the Airport. Under the Amended and Restated Intergovernmental Agreement for the Joint Operation of the Airport between Fort Collins and Loveland (the "IGA"), the Airport is operated as a joint venture with each City owning 50% of the assets and revenues and responsible for 50% of the operating and capital costs. The proposed budget does not include financial contributions from the City's General Fund as it has in previous years because anticipated Airport revenues will provide sufficient revenues for operations, primarily as a result of the Northern Colorado Law Enforcement Training Center Lease payments by both Cities. Because each City has an ownership interest in 50% of the Airport revenues, each City must appropriate its 50% share of the annual operating and capital budget for the Airport under the IGA.

3. **Second Reading of Ordinance No. 128, 2020, Being the Annual Appropriation Ordinance for the Fort Collins Downtown Development Authority relating to the Annual Appropriations for the Fiscal Year 2021 and Fixing Mill Levy for the Downtown Development Authority for Fiscal Year 2021. (Adopted)**

This Ordinance, unanimously adopted on First Reading on November 4, 2020, sets the Downtown Development Authority ("DDA") Budget. The following amounts will be appropriated:

DDA Public/Private Investments & Programs	\$8,067,545
DDA Operations & Maintenance	\$1,385,349
Revolving Line of Credit Draws	\$7,000,000
DDA Debt Service Fund	\$7,431,611

The DDA anticipates receiving in 2021 tax increment revenues of approximately \$6,630,081 and approximately \$788,897 in revenues from its five-mill property tax for the DDA's operational and maintenance expenditures. The Ordinance also sets the 2021 Mill Levy for the Fort Collins DDA at five (5) mills, unchanged since tax year 2002. The approved Budget becomes the Downtown Development Authority's financial plan for 2021.

4. **Items Relating to the 2020 Fee Updates. (Adopted)**

- A. Second Reading of Ordinance No. 129, 2020, Amending Chapter 7.5 of the Code of the City of Fort Collins to Revise the Capital Expansion Fees and the Transportation Expansion Fee.
- B. Second Reading of Ordinance No. 130, 2020, Amending Chapter 26 of the Code of the City of Fort Collins Regarding Calculation and Collection of Development Fees Imposed for the Construction of New or Modified Electric Service Connections.
- C. Second Reading of Ordinance No. 131, 2020, Amending Chapter 26 of the Code of the City of Fort Collins to Revise Sewer Plant Investment Fees.
- D. Second Reading of Ordinance No. 132, 2020, Amending Chapter 26 of the Code of the City of Fort Collins to Revise the Stormwater Plant Investment Fees.
- E. Second Reading of Ordinance No. 133, 2020, Amending Chapter 26 of the Code of the City of Fort Collins to Revise Water Plant Investment Fees.

- F. **Second Reading of Ordinance No. 134, 2020, Amending Chapter 26 of the Code of the City of Fort Collins to Revise the Water Supply Requirements Fee.**

These Ordinances, unanimously adopted on First Reading on November 4, 2020, review inflation updates effective January 1, 2021, associated with Electric Capacity fees, Water Supply Requirement fees, Water, Sewer and Stormwater Plant Investment fees, Capital Expansion fees and Transportation Capital Expansion fees. Inflation updates are 2.7% for Capital Expansion fees, 0.6% for Transportation Capital Expansion fees, and 3% for Utility fees.

Coordination of Council-approved fees began in 2016 to provide a more holistic view of the total cost impact. Previously, fee updates were presented to Council on an individual basis. After the 2020 fee update, fee phasing will be complete with regular two and four-year cadence updates beginning in 2021.

5. **Second Reading of Ordinance No. 135, 2020, Making a Supplemental Appropriation for the CanDo Community Telework Program and Authorizing the City Manager to Execute the Grant Agreement on Behalf of the City. (Adopted)**

This Ordinance, unanimously adopted on First Reading on November 4, 2020, appropriates \$4,999 in unanticipated revenue received through a grant for the Colorado Department of Transportation (CDOT) CanDo Community Telework Grant program to be managed by the FC Moves Department. The Ordinance also authorizes the City Manager, in consultation with the City Attorney, to execute the Grant agreement/acceptance on behalf of the City.

6. **Second Reading of Ordinance No. 136, 2020, Appropriating Unanticipated Philanthropic Revenue Received by City Give from WaterPik, Inc., for Transfer to Social Sustainability in the General Fund for the Equity Indicators Project. (Adopted)**

This Ordinance, unanimously adopted on First Reading on November 4, 2020, appropriates \$10,000 in philanthropic revenue in the General Fund for transfer to Social Sustainability for the support of the Equity Indicators Project as designated by the donor, WaterPik, Inc. In a commitment to advance equitable outcomes, the City has selected the CUNY Institute for State and Local Governance (ISLG) to lead the Equity Indicators project to establish a framework for measuring and understanding the inequities that exist in Fort Collins.

7. **Second Reading of Ordinance No. 137, 2020, Making Certain Amendments to the Codes of the City of Fort Collins to Eliminate Affordable Housing Fee Waivers and Instead Authorize a Discretionary Credit for Certain Affordable Housing Units to be Constructed in the City. (Adopted)**

This Ordinance, unanimously adopted on First Reading on November 4, 2020, amends City Code and Land Use Code to simplify the way affordable housing fee waivers are used to support the development of affordable housing units targeting the city's lowest wage earners. Instead of calculating precise fee amounts for waivers on a project by project basis, flat amounts of credit will be established and codified for qualifying new construction and adaptive reuse homes targeting households making no more than 30% Area Median Income (AMI). This support will still be subject to Council discretion and appropriation of funding. Not only will this provide greater certainty to the developer and be more efficient to administer by the City, it will also allow all City departments' fees to be paid in full either by the developer or by the credit that has been appropriated.

8. **Second Reading of Ordinance No. 141, 2020, Approving the Administrative Rules, Regulations and Standards for the Riverside Community Solar Program. (Adopted)**

This Ordinance, unanimously adopted on First Reading on November 4, 2020, approves the Riverside Community Solar Program rules, which define the continuing delivery of credits and other program benefits to participating customers. The Utilities' Executive Director has approved the Riverside Community Solar Program, as defined by the Program Rules and Continuing Participation Agreement under the authority defined by Code §26-463(a). Council's approval of the Ordinance, and the Program Rules as attached to it, completes the approval process.

Utilities completed acquisition of the Riverside Community Solar Project on August 28, 2020, assuming all responsibility for program management, customer support, and operations and maintenance. As a result of the transfer, existing customer contracts with Clean Energy Collective for the old program structure terminated. Utilities is re-enrolling participating customers that already own panels in the array of the Program via Continuing Participation Agreements. Current customers who own panels in the solar array ("Customer-owners") and re-enroll in the Program will continue to receive credits on their bill as they do today, based on the City's applicable time of day rates as set forth in the City Code.

9. **First Reading of Ordinance No. 142, 2020 Authorizing the Conveyance of a Portion of City Property at Kingfisher Natural Area in Exchange for an Access Easement at 1807 East Mulberry Street. (Adopted)**

The purpose of this item is to seek Council approval of a Quit Claim Deed conveying to DD&B Investment Group, LLC (DDB) a portion of Kingfisher Natural Area historically used for parking and access associated with the businesses occupying 1807 East Mulberry Street, in exchange for a Non-Exclusive Access Easement from DDB to the City for access to Kingfisher Natural Area.

10. **First Reading of Ordinance No. 143, 2020, Transferring Appropriations in the General Fund from the Coronavirus Relief Fund, CARES Act, Title V, to the Water and Wastewater Funds. (Adopted)**

The purpose of this item is to transfer \$27,245 and \$13,562 of the City's Coronavirus Relief Fund (CVRF) money from the General Fund to the Wastewater and Water Funds, respectively. The transfer is necessary to recognize the future depreciation of certain expenses in the Wastewater and Water Funds for lab supplies and to support teleworking capabilities. To account for this depreciation correctly and to recognize the depreciation expense in the correct fund, the original expenditures should occur in the Wastewater and Water Funds.

11. **Resolution 2020-103 Determining Fair Value for the Property Interests at 143 East Remington Street to be Exchanged by Entities Affiliated with the Downtown Development Authority and Housing Catalyst in Connection with the 140 East Oak Street Affordable Housing Project. (Adopted)**

The purpose of this item is for Council to determine fair value for a property exchange the Downtown Development Authority (DDA) and Housing Catalyst are proposing regarding the 140 East Oak Street affordable housing project, which would include incorporation of the neighboring property, 143 Remington Street, into the project. This parcel will be combined with the 140 East Oak Street property, for which Council determined fair value via Resolution 2020-061 at the Council meeting held on July 21, 2020.

The project's 79 units will be a mix of studio, and one- and two-bedroom apartments that serve individuals and households whose earnings range from 30-80% AMI (area median income) with the target of an overall average of 60% AMI. With these combined parcels, the number of parking spaces increases by nine and the building height is reduced from six to five stories, which increases neighborhood compatibility and is in response to community concerns. This work aligns with the Council Priority of Affordable and Achievable Housing Strategies, is a partnership between the DDA and Housing Catalyst, and was approved by the Planning and Zoning Board on September 3, 2020.

12. **Resolution 2020-104 Approving the 2020 Master Plan for the Northern Colorado Regional Airport. (Adopted)**

The purpose of this item is to adopt the updated Master Plan at the Northern Colorado Regional Airport. The Airport is jointly owned and operated by the Cities of Fort Collins and Loveland, and operational oversight is provided by the Northern Colorado Regional Airport Commission. The Federal Aviation Administration (FAA) recommends that public use airports have and update their master plans approximately every 10-15 years. The Master Plan focuses on the physical development of airport property to meet existing and projected aviation demands. In addition, other factors relating to the Airport and its environs were evaluated, such as surrounding land use, environmental considerations, and infrastructure.

● **STAFF REPORTS**

A. **Staff Report: CARES Funding Update** (SeonAh Kendall)

City Manager Atteberry thanked SeonAh Kendall and Blaine Dunn for their leadership.

Blaine Dunn, Interim Accounting Director, provided a recap of the funding received by the City from the federal CARES Act bill. He stated the City was granted \$9 million as part of the Coronavirus Relief Fund and he explained the reimbursement process for related costs.

SeonAh Kendall, Recovery Manager, discussed the interactive dashboard staff is anticipating making public next week that addresses funds obligated and received via reimbursement as well as other information. She also discussed the Keep NoCo Open campaign and its messaging around ensuring the community businesses can remain open safely.

Councilmember Pignataro asked how CARES funding is distributed. Dunn replied the CARES Act was the overarching bill passed by the federal government and noted the same formula amounts were used to distribute that funding as are usually used for things like CDBG. There was a formula dictated by the Treasury Department for the Coronavirus Relief Fund and that was distributed by the state.

Mayor Troxell noted the funding provided to the Northern Colorado Regional Airport was distributed through the FAA.

Councilmember Gorgol asked how staff has been able to adapt and change what is being funded to respond to community needs. Kendall replied staff works with local service providers and the County to adjust opportunities. She also noted the United States Treasury guidance has changed quite a bit over the past few months as well.

Councilmember Gorgol asked if anything will change in terms of Poudre School District going back to remote learning. Kendall replied staff has had conversations around providing childcare for vulnerable students and using CARES dollars to fund that.

Mayor Pro Tem Stephens noted businesses will only be able to remain open if health guidelines are followed. She also encouraged fellow Councilmembers to request additional funds.

Councilmember Summers discussed possible state fund allocations. He asked about the status of the funding of motel rooms for homeless individuals. Jackie Kozak-Thiel, Chief Sustainability Officer, replied the original projected cost was \$420,000 to support a non-congregate shelter for

the most vulnerable homeless individuals and the actual cost will be about \$419,000 by the end of the year.

Councilmember Summers asked if it is correct that 52 unique individuals have been served for some period of time. Kozak-Thiel replied in the affirmative and noted the program is serving people who are currently battling cancer and other health issues. She confirmed the program is also helping individuals get document-ready to ensure a smooth transition to permanent supportive housing or to ensure health coverage.

City Manager Atteberry commented on the City organization moving its workforce to remote as much as possible. He stated he has been in regular contact with Tom Gonzales, Larimer County Public Health Director, regarding restaurants noting the industry has been hit very hard and most are doing great work; however, there are some not abiding by guidelines and those will be addressed and cited if appropriate.

● COUNCILMEMBER REPORTS

Mayor Pro Tem Stephens commented on Neighbor to Neighbor being named an Envision Center by HUD, making it the only entity in the state to be so named, and commended the work of the organization. She reported on small business visits to Foundation Music School and Young's Vietnamese Café. She noted this week is the National League of Cities conference and she mentioned some of the topics to be discussed.

Councilmember Gutowsky reported on a visit to Wolverine Press and noted the Food Bank is requesting frozen turkeys for Thanksgiving. She also commented on a meeting with Fort Collins' Friendship City in Portugal and on Colorado Recycle Week and related Fort Collins accolades.

Mayor Troxell reported on two proclamations, one related to shopping locally during this holiday shopping season. He reported on visits to Dandelions and Rust and Raska Sauce and Restaurant. He also reported on the Salvation Army Red Kettle kick-off and his participation in meetings related to the opioid settlement to the state.

● DISCUSSION ITEMS

13. Items Relating to a Citizen-Initiated Petition Relating to the Hughes Stadium Property. (Adopted)

1. Consideration of a motion to go into an Executive Session to discuss the Hughes Stadium Property Initiative Petition.

"I move that the City Council go into executive session for the purpose of discussing with the City's attorneys and appropriate management staff the following matters 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), the following:*
 - A. *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, development or regulation of the or local law, and*

- B. *Specific legal questions related to potential litigation regarding the citizen initiative related to the Hughes Stadium property and the manner in which the particular policies, practices or regulations of the City related to that citizen initiative may be affected by existing or proposed provisions of federal, state or local law.*"
2. *First Reading of Ordinance No. 144, 2020, Adopting a Citizen-Initiated Ordinance Regarding the Rezoning and Acquisition of the Hughes Stadium Annexation Property. (Option 1)*

OR

Resolution 2020-105 Submitting to the Electors of the City at the Next Regular Municipal Election on April 6, 2021, a Citizen-initiated Ordinance Relating to the Hughes Stadium Property. (Option 2)

The purpose of this item, pursuant to the requirements of the City Charter when presented with an initiative petition certified as sufficient by the City Clerk, is to either:

- (1) *adopt the proposed ordinance without alteration within 30 days; or*
(2) *submit the proposed measure to the registered electors of the City.*

Mayor Pro Tem Stephens recused herself from the discussion of this item.

Councilmember Gorgol made a motion, seconded by Councilmember Pignataro, that the City Council go into executive session for the purpose of discussing with the City's attorneys and appropriate management staff the following matters 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), the following:
 - A. 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, development or regulation of the or local law, and
 - B. Specific legal questions related to potential litigation regarding the citizen initiative related to the Hughes Stadium property and the manner in which the particular policies, practices or regulations of the City related to that citizen initiative may be affected by existing or proposed provisions of federal, state or local law.

Cory (no last name given) opposed the use of an Executive Session and encouraged Council to look at the bigger picture of ensuring Fort Collins residents have the ability to recreate outdoors on this property.

Mayor Troxell noted no decisions will be made in the Executive Session.

Beth Bensheit noted Fort Collins collects over \$8 million a year in sales and use taxes for Natural Areas. She noted the property will never be recovered by the residents if it is sold and developed.

Kathryn Dubiel stated she was very involved in the citizen initiative process and expressed concern about the use of an Executive Session to discuss the initiative.

Jason Kneagl thanked Mayor Pro Tem Stephens for acknowledging ongoing ethics concerns regarding her employment at CSU. He requested Mayor Troxell also recuse himself and opposed Council having discussions in Executive Session.

Mary Alice Grant expressed concern about Council going into Executive Session.

Tamara Muir thanked Mayor Pro Tem Stephens for recusing herself and requested Mayor Troxell do the same. She expressed concern the entire process around the Hughes Stadium property has lacked transparency.

Rory Heath echoed concerns that have been mentioned and stated an Executive Session should only be used if absolutely necessary.

Jennifer (no last name given) opposed the use of an Executive Session.

Mayor Troxell noted this item will be discussed following the Executive Session and stated there is no pending conflict of interest issue related to his employment with CSU. He stated his role as a faculty member has nothing to do with the CSU System and land issues; therefore, there is no reason for his recusal.

Councilmember Cunniff stated he would support the motion despite the citizen fears that a decision will be made. He noted the Executive Session will be used to ensure Council understands the landscape with respect to its decision space regarding the citizen initiative.

The vote on the motion was as follows: Yeas: Cunniff, Troxell, Gutowsky, Summers, Gorgol and Pignataro. Nays: none.

THE MOTION CARRIED.

(Secretary's Note: The Council went into Executive Session at this point in the meeting.)

Mayor Troxell noted the City Charter requires Council to either adopt the proposed ordinance without alteration or to submit a proposed measure to the registered electors of the City when presented with a certified citizen initiative petition.

City Clerk Coldiron discussed the petition process and noted the petition was certified by the City Clerk's Office on November 5. She outlined Council's options: to adopt the proposed citizen-initiated ordinance with no alterations within 30 days, or to submit the proposed measure to the registered electors of the City at the next City municipal election, which is in April. She noted a protest was filed with the City Clerk's Office related to the proposed ballot language, but it was withdrawn after staff worked with the party to revise the language.

Mayor Troxell commented on the adversarial nature of this citizen initiative noting it essentially directs the City Manager to subvert Council and purchase the property. He noted Council has already directed staff to do so using market-based logic and negotiating authority; however, CSU declined the City's offer and has said it plans to develop the property with the stated goal of generating a financial return and delivering workforce housing for its employees. He stated the Council is committed to transparency and to working with partners to respond to the needs of residents for the good of the community.

Tamara (no last name given) stated the ethics complaints brought against Mayor Troxell were not dismissed at the IDEC for lack of conflict but rather for lack of jurisdiction. She stated the fact that over 8,000 signatures were gathered on the petition should speak volumes. She stated the

citizen initiative is the only recourse citizens have to support themselves and she requested Council's support as being officials elected to act on behalf of constituents.

Tom Farnsworth commented on a saved open space impacting citizens' lives for generations and stated Council needs to act on purchasing the property with Natural Areas sales tax dollars.

Lacey Gechter supported adopting the ordinance as is.

Nick Frye stated he is excited there are only two options before Council and expressed disappointment in Mayor Troxell stating he is corrupt and fraudulent.

Michela Dunbar discussed the need for a wildlife rehabilitation center in Northern Colorado and urged Council to adopt the ordinance as is.

Martha Zook commented on members of the Maxwell family signing the petition and stated CSU should do the right thing and allow for the will of Fort Collins residents to be heard.

Jason Knebl commented on the 8,300 signatures collected and requested Council listen to the will of the people it was elected to serve. He stated Mayor Troxell should recuse himself from this decision.

Rebecca Lapole echoed the citizen comments and noted there is a need for a wildlife rehabilitation center which could be located on the property. She agreed Mayor Troxell should recuse himself from this decision.

Barbara Denny commented on the value of the land to citizens as open space and she requested Council listen to the will of the people and adopt the ordinance as is.

Liz Dougherty requested the property be preserved as open space. She commented on the negative effects of developing the parcel, including traffic and pollution.

Mary Alice Grant expressed disappointment in the way the public feedback was framed by Mayor Troxell. She opposed development of the property and stated the City did not negotiate in good faith with CSU.

Lisa McDonald requested Council represent its constituents and stated there is no guarantee of an affordable housing development.

Beth (no last name given) commented on her experience getting petition signatures and noted Fort Collins residents support open space.

Ted Walkup expressed support for public open land at the Hughes site and stated the negative impacts of the proposed development would endanger bikers and pedestrians and create increased air pollution. He stated there are more suitable locations for affordable housing in the community.

Tallon Nightwalker commented on the need for a wildlife rehabilitation center and stated this initiative clearly shows the desire of residents to have open space and a rehabilitation center.

Kathryn Dubiel commented on the community's overwhelming support for the open space sales tax and stated this item would be overwhelmingly adopted if placed on the ballot.

Paul Patterson requested Council adopt the ordinance as is and stated CSU is misusing the Site Plan Advisory Review (SPAR) process as the proposed development is private, not public.

Tara (no last name given) stated she hopes Council hears how important this land is. She encouraged Council to adopt the ordinance as is and expressed concern about the application of the SPAR process.

Lynn Studheit requested Council prioritize the voices of citizens over that of CSU.

Rory Heath opposed the statements and actions of Mayor Troxell and urged Council to use open space dollars to purchase the property.

Jennifer (no last name given) stated CSU is aiming to create housing for its workforce, a category into which Mayor Troxell falls; therefore, he should recuse himself from this discussion. She discussed the importance of the property as open space.

Addie (no last name given) commented on the community's desire for this property to be open space.

Coleen (no last name given) discussed the community support for the adoption of this ordinance.

Mary (no last name given) commented on the community's desire for this property to remain open space.

Emily Olivo commented on the environment being a top priority for Fort Collins residents and commented on the goals that will be met by ensuring this property remains open space. She also commented on the need for a wildlife rehabilitation center.

Melissa (no last name given) noted affordable housing was not a priority for CSU from the beginning and opposed the use of the SPAR process. She requested Council adopt the ordinance as is.

Elena (no last name given) thanked the volunteers who collected signatures and urged Council to adopt the ordinance as is. She opposed the use of the SPAR process and City Manager Atteberry's participation in any negotiations with CSU.

Jerry Gavaldon commented on the SPAR process and encouraged Council to make the best decision for the community.

Melody Nicholas noted this property is not just another cornfield and stated allowing this development would negatively impact the community.

Councilmember Cunniff requested clarification on administrative matters, such as land purchases, going before voters on a ballot. City Attorney Daggett replied matters such as a land sale have been found to be more administrative than legislative per Colorado law and there are multiple decisions indicating the citizen initiative power does not extend to administrative matters unless so stated in the City Charter, which is not the case in Fort Collins. Therefore, there is an issue with respect to the portions of the initiative that deal with the matter of acquiring the property, as opposed to the zoning aspect of the initiative which would be considered legislative.

Councilmember Cunniff noted Council could adopt the ordinance and circumvent the ballot issue. City Attorney Daggett replied in the affirmative.

Councilmember Cunniff noted the previous offer for the land made by the City did not just utilize Natural Areas tax dollars and if the City were to move forward with the land purchase, it would likely be the same situation.

Councilmember Cunniff stated he does not support purchasing the entire parcel with Natural Areas tax dollars as parts of the land are not natural. He noted there is specific language regarding habitat and restoration that is part of the Natural Areas tax ballot language.

Mayor Troxell questioned the price of the parcel given there may not be a willing seller. He asked about the condition of the property as it relates to Natural Areas standards. City Manager Atteberry replied staff expects the restoration of this property to take several million more dollars beyond the property acquisition cost. He discussed the previous offer made by the City and stated it was a fair market value offer.

Councilmember Pignataro requested input regarding the difference between open space and Natural Areas. John Stokes, Natural Areas, replied there are two funding sources for the Fort Collins Natural Areas program: a City of Fort Collins sales tax and a county sales tax, a portion of which is shared with the City. The revenues must be spent in accordance with the initiatives passed by voters and with the adopted Master Plan. He stated the City uses the term "Natural Areas" to emphasize the mission is oriented to conservation, biological diversity, et cetera.

Councilmember Pignataro asked if the City has a permanent easement on the part of the Hughes property with the sledding hill and frisbee golf course. City Manager Atteberry replied in the affirmative and noted it is for stormwater purposes. City Attorney Daggett replied the City acquired a stormwater easement that was intended to address stormwater flows in perpetuity; however, there are some provisions that would allow for the location of the detention to be relocated. The City's right to have a stormwater facility on the property is permanent.

Councilmember Pignataro asked if there are any third-party entities that could determine fair market value. City Manager Atteberry replied there are appraisers who could provide estimated values; however, the question about a willing seller still remains.

Councilmember Pignataro asked if the estimates would change depending on the zoning. City Manager Atteberry replied in the affirmative.

Councilmember Cunniff noted a wildlife rehabilitation center would be allowed under Public Open Lands zoning.

Councilmember Summers stated citizens have expressed their appreciation for the property as is; therefore, there may not be an immediate need for restoration.

Mayor Troxell asked about the current Natural Areas account balance. Stokes replied it is not the \$74 million indicated by some speakers and he noted about \$5 million of the approximately \$8 million in annual revenues is budgeted for operations and maintenance of the Natural Areas system.

Mayor Troxell noted this property is not a priority for the Natural Areas program to acquire; therefore, its purchase would take away from other prioritized purchases. Stokes noted staff has not recommended this property for acquisition as it already owns a great deal of Natural Area space on the west side of town and Spring Canyon Community Park is also nearby.

Councilmember Cunniff made a motion, seconded by Councilmember Gutowsky, that the Council adopt Ordinance No. 144, 2020, on First Reading.

Councilmember Cunniff noted there is a question related to the administrative nature of this item if it were to be placed on the ballot. He thanked the citizens for their efforts.

Councilmember Summers stated he would like to see the item placed on the ballot before the entire constituency.

Councilmember Gorgol commended the passion of the residents and stated residents may have wanted to place the item on the ballot when they signed the petition. She stated it would be a completion of the democratic process to have the item placed on the ballot.

Councilmember Gutowsky stated she would support the motion as residents from all over the city have expressed their desire to preserve the property.

Mayor Troxell stated he would support placing the item on the ballot.

The vote on the motion was as follows: Yeas: Gutowsky, Cunniff and Pignataro. Nays: Troxell, Summers and Gorgol.

THE MOTION FAILED.

Councilmember Cunniff made a motion, seconded by Councilmember Gorgol, to adopt Resolution 2020-105, as amended to include the language added.

Councilmember Cunniff noted this action effectively refers the entire issue to the ballot; however, a judge will be asked to help sort through the Charter issue related to administrative actions.

City Attorney Daggett noted some additional minor corrections to the Resolution language.

Councilmembers Cunniff and Gorgol accepted the corrections as friendly.

Councilmember Cunniff stated he would support the motion and noted there should be a way to honor the intent of the voters regardless of the judge's recommendations.

Councilmember Pignataro stated she would support the motion, though she would have preferred to adopt the ordinance outright.

Councilmember Gutowsky stated she would support the motion, though she would have preferred to adopt the ordinance as well.

RESULT:	RESOLUTION 2020-105 ADOPTED [6 TO 0]
MOVER:	Ross Cunniff, District 5
SECONDER:	Emily Gorgol, District 6
AYES:	Pignataro, Gorgol, Gutowsky, Summers, Troxell, Cunniff
RECUSED:	Stephens

Motion to Suspend the Rules to Continue the Meeting Past 10:30 PM.

Councilmember Cunniff made a motion, seconded by Councilmember Gorgol, to suspend the rules to continue the meeting past 10:30 PM in order to complete its agenda and consider such other business as may come before Council. Yeas: Cunniff, Gorgol, Pignataro, Stephens, Troxell, Summers and Gutowsky. Nays: none.

Council members discussed whether moving forward with all items on the agenda is appropriate given the lateness of the hour.

City Manager Atteberry noted staff has talked with the applicant for the Timberline Church Rezoning and they are in agreement the item could be moved to another date. He discussed the time requirements for other items on the agenda.

City Attorney Daggett stated Council would need to formally vote to continue the rezoning item to a date certain.

RESULT:	MOTION ADOPTED [UNANIMOUS]
MOVER:	Ross Cunniff, District 5
SECONDER:	Emily Gorgol, District 6
AYES:	Pignataro, Gorgol, Gutowsky, Summers, Stephens, Troxell, Cunniff

Motion to Postpone the Timberline Church Rezoning.

Councilmember Summers made a motion, seconded by Councilmember Cunniff, to postpone consideration of *Public Hearing and First Reading of Ordinance No. 145, 2020 Amending the Zoning Map of the City of Fort Collins by Changing the Zoning Classification for that Certain Property Known as the Timberline Church Rezoning*, as the first item on the regular meeting agenda of December 1, 2020.

City Manager Atteberry noted staff would likely recommend the meeting begin at 4:30 PM on December 1.

Councilmember Gorgol noted both the November 24 and December 8 meetings are already scheduled to begin at 4:30.

Councilmember Cunniff expressed concern about making it a habit for the meetings to start at 4:30 as citizens are used to them starting at 6:00.

Mayor Pro Tem Stephens noted another option would be to schedule a special meeting.

Mayor Troxell suggested the Leadership Team discuss the schedule.

Brad Florin, Timberline Church, stated he understood the Timberline Church Rezoning item would be delayed by one week, not more, and he requested Council consider the item this evening.

Robert (no last name given) expressed concern Timberline Church has not stated a reason for its zoning change request. He stated the proposed zoning is not compatible with the neighborhood and is not justified. He requested the zoning not be granted until the Church can identify a need.

Councilmember Cunniff suggested amending the motion to postpone consideration of the item to November 24 per the applicant's request. Councilmember Summers concurred.

RESULT:	MOTION ADOPTED [UNANIMOUS]
MOVER:	Ken Summers, District 3
SECONDER:	Ross Cunniff, District 5
AYES:	Pignataro, Gorgol, Gutowsky, Summers, Stephens, Troxell, Cunniff

14. **Second Reading of Ordinance No. 138, 2020, Being the Annual Appropriation Ordinance Relating to the Annual Appropriations for Fiscal Year 2021; Adopting the Budget for the Fiscal Year beginning January 1, 2021, and Ending December 31, 2021; and Fixing the Mill Levy for Property Taxes Payable in 2021. (Adopted on Second Reading)**

This Ordinance, unanimously adopted on First Reading on November 4, 2020, sets the City Budget for the one-year period (2021) which becomes the City's financial plan for the next fiscal year. This Ordinance sets the amount of \$668,909,564 to be appropriated for fiscal year 2021. However, this appropriated amount does not include what is being appropriated by separate Council/Board of Director actions to adopt the 2021 budget for the General Improvement District (GID) No. 1 of \$808,791, the 2021 budget for GID No. 15 (Skyview) of \$1,000, the Urban Renewal Authority (URA) 2021 budget of \$6,706,744 and the Downtown Development Authority 2021 budget of \$23,884,505. This results in City-related total operating appropriations of \$700,310,604 in 2021. This Ordinance also sets the 2021 City property tax mill levy at 9.797 mills, unchanged since 1991.

City Manager Atteberry discussed the unique one-year nature of this budget and stated he is proud to recommend its adoption.

Travis Storin, Interim Chief Financial Officer, stated this budget is aimed to align with the City's mission, vision, and values, and with the adopted Strategic Plan. He discussed changes made since the item was first presented in September, including a full restoration of the original budgets for Climate Action and Air Quality programming, balancing the homeless coordinator position, and a scaling back of Conservation Trust Fund funding of parks operations and maintenance. He stated staff believes this budget maintains critical services and continues investment in infrastructure.

Councilmember Cunniff thanked staff for their work on the budget and stated it does what it needs to do to keep citizens well-served.

Mayor Troxell commended the work of staff as well.

Mayor Pro Tem Stephens stated she is grateful no crucial core services were cut and she looks forward to the process for subsequent budgets.

Mayor Pro Tem Stephens made a motion, seconded by Councilmember Cunniff, to adopt Ordinance No. 138, 2020, on Second Reading.

RESULT:	ORDINANCE NO. 138, 2020 ADOPTED ON SECOND READING [UNANIMOUS]
MOVER:	Kristin Stephens, District 4
SECONDER:	Ross Cunniff, District 5
AYES:	Pignataro, Gorgol, Gutowsky, Summers, Stephens, Troxell, Cunniff

15. **Items Relating to Electric and Water Rates, Fees and Charges. (Adopted on Second Reading)**

A. *Second Reading of Ordinance No. 139, 2020, Amending Chapter 26 of the Code of the City of Fort Collins to Revise Electric Rates, Fees and Charges.*

B. *Second Reading of Ordinance No. 140, 2020, Amending Chapter 26 of the Code of the City of Fort Collins to Revise Water Rates, Fees, and Charges.*

These Ordinances, unanimously adopted on First Reading on November 4, 2020, adjust monthly charges for both electric and water services in 2021. The revenue requirements to support the 2021 budget require increasing monthly charges for electric service by 3.0%. Additionally, a reduction in pricing is proposed for the voluntary Green Energy program, reducing the charge per kWh from 1.9 cents per kWh to 1.6 cents per kWh in 2021. A 2% increase for water services is proposed to help offset mitigation costs related to the Cameron Peak Fire. Upon adoption, both rates would be effective January 1, 2021.

Councilmember Cunniff stated the need for these increases has been shown and he noted none of the Utilities are for-profit entities.

Mayor Pro Tem Stephens made a motion, seconded by Councilmember Cunniff, to adopt Ordinance No. 139, 2020, on Second Reading.

Mayor Pro Tem Stephens commented on the importance of rate smoothing that allows for smaller, more manageable rate increases. She noted there are many options for residents who may be struggling to pay utility bills.

Mayor Pro Tem Stephens made a motion, seconded by Councilmember Gutowsky, to adopt Ordinance No. 140, 2020, on Second Reading.

RESULT:	ORDINANCE NO. 139, 2020, ADOPTED ON SECOND READING [UNANIMOUS]
MOVER:	Kristin Stephens, District 4
SECONDER:	Susan Gutowsky, District 1
AYES:	Pignataro, Gorgol, Gutowsky, Summers, Stephens, Troxell, Cunniff

RESULT:	ORDINANCE No. 140, 2020, ADOPTED ON SECOND READING [UNANIMOUS]
MOVER:	Kristin Stephens, District 4
SECONDER:	Susan Gutowsky, District 1
AYES:	Pignataro, Gorgol, Gutowsky, Summers, Stephens, Troxell, Cunniff

16. **Public Hearing and First Reading of Ordinance No. 145, 2020 Amending the Zoning Map of the City of Fort Collins by Changing the Zoning Classification for that Certain Property Known as the Timberline Church Rezoning. (Postponed to Date Certain)**

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 for the Timberline Church Campus from Low Density Mixed-Use Neighborhood (LMN) to Medium Density Mixed-Use Neighborhood (MMN). The area proposed to be rezoned is approximately 32.79 acres. The applicant proposes the rezoning to support future infill housing on the site and enable higher density housing than would be allowed with the current LMN zoning. Additional commercial and institutional uses may also be proposed. The church has been in discussions with CSU regarding a potential land swap to construct an attainable housing project. CSU would donate their 4.76 acres on Timberline Road, and the church will swap 8-10 acres for the CSU property.

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 6-0 to recommend approval of the request with condition that the residential density be limited to 20 units per gross acre and that an Overall Development Plan (ODP) precede or accompany the Project Development Plan (PDP). The purpose of the condition of approval is to provide a density limit to help achieve a compatible transition with the surrounding neighborhood because the MMN zone district does not have a maximum density requirement. Additionally, the ODP would help identify the general design parameters for the property – including the general location and nature of proposed uses, transportation circulation, open space, buffers, and drainage features. A traffic study is also required. The ODP is required to be reviewed by the Planning and Zoning Board and would require at least one neighborhood meeting.

(Secretary's Note: The Council voted earlier in the meeting to postpone consideration of this item to November 24, 2020.)

RESULT:	POSTPONED TO DECEMBER 1, 2020 [UNANIMOUS]
MOVER:	Ken Summers, District 3
SECONDER:	Ross Cunniff, District 5
AYES:	Pignataro, Gorgol, Gutowsky, Summers, Stephens, Troxell, Cunniff

- Consideration of a motion to adjourn the City Council meeting to conduct the Board meetings listed below then return to the regular City Council meeting:

Mayor Pro Tem Stephens made a motion, seconded by Councilmember Gutowsky, that Council adjourn to conduct:

- A. General Improvement District No. 1 Board Meeting; and
 - B. Skyview South General Improvement District No. 15 Board Meeting,
- and then return to the regular Council meeting.

(Secretary's Note: The Council adjourned from 11:19 PM until 11:26 PM to conduct the aforementioned meetings then reconvened.)

RESULT:	MOTION ADOPTED [UNANIMOUS]
MOVER:	Kristin Stephens, District 4
SECONDER:	Susan Gutowsky, District 1
AYES:	Pignataro, Gorgol, Gutowsky, Summers, Stephens, Troxell, Cunniff

● **OTHER BUSINESS**

- A. Possible consideration of the initiation of new ordinances and/or resolutions by Councilmembers.

(Three or more individual Councilmembers may direct the City Manager and City Attorney to initiate and move forward with development and preparation of resolutions and ordinances not originating from the Council's Policy Agenda or initiated by staff.)

- B. Consideration of a motion to authorize the appeal from Landmark Preservation Commission denial of eligibility of 724 and 726 College Avenue scheduled for December 1, 2020, to proceed using Remote Technology without the option for in-person participation:

Mayor Pro Tem Stephens made a motion, seconded by Councilmember Pignataro, that City Council find that the hearing on the appeal from Landmark Preservation Commission denial of eligibility of 724 and 726 College Avenue scheduled for December 1, 2020, is pressing and requires prompt action and further find that virtual technology will provide due process to hear that matter through sufficient public participation and input, and based upon such findings authorize a Quasi-Judicial Hearing using Remote Technology by the City Council to proceed in that matter pursuant to Section 8 of Ordinance No. 079, 2020.

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

● **ADJOURNMENT**

- A. Consideration of a motion to adjourn this meeting to 4:30 p.m. on Tuesday, November 24:

Mayor Pro Tem Stephens made a motion, seconded by Councilmember Gutowsky, that Council adjourn this meeting to 4:30 PM on Tuesday, November 24, for consideration of such business as may then come before the Council.

City Attorney Daggett noted Council may want to consider adjourning to 6:00 PM.

Mayor Pro Tem Stephens and Councilmember Gutowsky accepted the amendment as friendly.

RESULT:	MOTION ADOPTED [UNANIMOUS]
MOVER:	Kristin Stephens, District 4
SECONDER:	Susan Gutowsky, District 1
AYES:	Pignataro, Gorgol, Gutowsky, Summers, Stephens, Troxell, Cunniff

The meeting adjourned at 11:31 PM.



Mayor

ATTEST:



City Clerk

