

December 15, 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 outlined the Spanish interpretation offering for the meeting.

City Manager Atteberry withdrew Item No. 21, *First Reading of Ordinance No. 164, 2020, Authorizing the City Manager to Execute an Agreement with the Developer of Montava for the Annual Use of Up to 25 Acre-Feet of Water of Fort Collins Utilities in a Plan for Augmentation for a Potable Water Supply for the Montava Property*, from the agenda for additional Council discussion.

● **PUBLIC COMMENT**

Mayor Troxell outlined the public participation options.

Danny Katz, CoPIRG Director, stated the GoEV City and County Coalition is recognizing Fort Collins as a GoEV City for its work to encourage electric vehicles.

Cheryl Distaso expressed concern about the treatment of homeless individuals during the pandemic noting recent COVID outbreaks have highlighted the dangers of congregate shelters. She encouraged Council to secure non-congregate housing for homeless citizens.

Zach Heath expressed concern about congregate homeless shelters and encouraged additional work to secure non-congregate housing.

Eric Sutherland stated contracts entered into by a municipal corporation are not enforceable by specific performance by Colorado courts.

Nancy York encouraged Council to find proper housing for homeless citizens.

● **PUBLIC COMMENT FOLLOW-UP**

Mayor Troxell summarized the citizen comments and requested an update regarding non-congregate and day shelters.

City Manager Atteberry mentioned the other GoEV cities and counties and thanked Amanda Mansfield for coordinating the effort.

Beth Sowder, Social Sustainability Director, stated the non-congregate shelter program has been operational since August 3rd through partnerships with Catholic Charities and Homeward Alliance. She stated there have been a total of 54 high-risk individuals who have been served and

31 individuals are still in the program. The remainder have found housing or left for other reasons. She stated all 31 of those remaining have a housing plan in place.

Sowder stated staff has worked closely with community partners to attempt to find a location for a day shelter; however, no options were identified. Westminster Presbyterian Church has offered to provide its facility for inclement weather days and that is being staffed by Homeward Alliance. Additionally, Homeward Alliance and Catholic Charities open on inclement weather days and Homeward Alliance has brought in heaters for outdoor spaces on non-inclement weather days.

Councilmember Summers commended the work on housing plans and asked if there is a way to utilize the non-congregate shelter space for homeless individuals who have tested positive for COVID. Sowder replied Larimer County and the Health District have partnered to secure an 88-room hotel in Loveland as an isolation, recovery, and quarantine space.

Mayor Pro Tem Stephens asked if staff is still seeking a location for a day shelter for non-inclement weather. Sowder replied staff has continued looking for a location and stated any recommendations would be taken into consideration.

Mayor Pro Tem Stephens asked how food is being distributed to individuals experiencing homelessness. Sowder replied all meals are provided to residents at both congregate and non-congregate shelters and Homeward Alliance has identified funding for food service at the isolation hotel in Loveland.

● **CONSENT CALENDAR**

(Secretary's Note: Councilmember Gorgol withdrew from the discussion of this item due to a conflict of interest.)

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

<b>RESULT:</b>	<b>ADOPTED [6 TO 0]</b>
<b>MOVER:</b>	Kristin Stephens, District 4
<b>SECONDER:</b>	Susan Gutowsky, District 1
<b>AYES:</b>	Pignataro, Gutowsky, Summers, Stephens, Troxell, Cunniff
<b>RECUSED:</b>	Gorgol

1. **Consideration and Approval of the Minutes of the November 4, 2020 and November 17, 2020 Regular Meetings and the November 10, 2020 Adjourned Meeting. (Adopted)**

The purpose of this item is to approve the minutes of the November 4, 2020 and November 17, 2020 Regular Meetings and the November 10, 2020 Adjourned Meeting.

2. **Second 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. (Adopted)**

Adequate notice for second reading of this Ordinance was not published in the Coloradoan. Therefore, Council voted on December 1 to postpone second reading to this December 15, 2020, Council Meeting.

*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 First Reading on November 24, 2020, amends 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.

3. **Second Reading of Ordinance No. 146, 2020 Appropriating Prior Year Reserves in the Self Insurance Fund for Increased Premiums for Property Loss Insurance. (Adopted)**

This Ordinance, unanimously adopted on First Reading on December 1, 2020, appropriates funds to compensate for increased premiums for the City's property loss insurance that were paid by the Self Insurance Fund for the 2020/2021 period.

The City's Self Insurance Fund is currently over budget through October 2020 and is expected to remain over budget through year-end. The primary driver of this increase is the higher insurance premiums that have been realized in 2020. These increases are due to two factors: an industry wide adjustment in coverage due to increased risk exposure in the state of Colorado, and more hail storm damage realized at the City in prior years, most notably in 2018.

4. **Second Reading of Ordinance No. 147, 2020 Making Supplemental Appropriations for Roof Repairs on City Buildings Due to 2018 Hail Damage. (Adopted)**

This Ordinance, unanimously adopted on First Reading on December 1, 2020, appropriates additional insurance proceeds for further scope of work associated with completing roof repair work for a 2018 hail damage claim. These additional proceeds are for recovered depreciation, abatement of asbestos materials, code upgrades and project management.

5. **Second Reading of Ordinance No. 148, 2020, Making Supplemental Appropriations of Coronavirus Aid, Relief, and Economic Security (CARES) Act Funding for Transport Operating Assistance, Preventative Maintenance, and Contracted Service Costs Related to Preparation for and Response to the COVID-19 Pandemic. (Adopted)**

This Ordinance, unanimously adopted on First Reading on December 1, 2020, appropriates grant revenue Transfort has been allocated by the Federal Transit Agency (FTA). Transfort was awarded \$10,368,067 and will net the amount of \$8,719,626 in Coronavirus Aid, Relief and Economic Security (CARES) Act through FTA apportionments to urbanized areas. CARES funding is provided at a 100-percent federal share, with no local match required, and is available to support capital, operating, and other expenses to prepare for and respond to COVID-19. Transfort confirmed this money would be

available earlier in the year. At that time, Transfort planned to use the CARES funds to pay for what had previously been allocated from the General Fund for operating assistance, preventative maintenance, and contracted service costs.

6. **Second Reading of Ordinance No. 153, 2020, Adopting the 2021 Larimer County Regional Transportation Capital Expansion Fee Schedule. (Adopted)**

This Ordinance, unanimously adopted on First Reading on December 1, 2020, adopts the 2021 Larimer County Regional Transportation Capital Expansion Fee Schedule.

7. **Second Reading of Ordinance No. 154, 2020, Declaring Certain City-Owned Property on Arapaho Bend Natural Area as Road Right-of-Way. (Adopted)**

This Ordinance, unanimously adopted on First Reading on December 1, 2020, dedicates a strip of property owned by the Natural Areas Department (NAD) as road right-of-way (ROW) via the proposed Arapaho Bend Ponds Subdivision plat, and to authorize the City Manager to sign said plat. NAD is platting a 3.099-acre parcel for the construction of a new trailhead parking lot. This project triggers the development review process and the requirement to dedicate additional road right-of-way for Strauss Cabin Road.

8. **Second Reading of Ordinance No. 155, 2020 Amending the Zoning Map of the City of Fort Collins by Changing the Zoning Classification for that Certain Property Known as the Cottonwood Manufactured Housing Community 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 December 1, 2020, amends the City's Zoning Map to change the zoning designation for the Cottonwood Manufactured Housing Community (MHC), one of six properties containing manufactured housing communities proposed to be rezoned to the Manufactured Housing (M-H) zone district to support manufactured housing preservation. This rezoning request has been initiated by the City of Fort Collins.

The Cottonwood MHC is located at 1336 Laporte Avenue and the zoning is proposed to change from the Low Density Mixed-Use Neighborhood (LMN) zone district to the Manufactured Housing (MH) zone district.

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 5-1 at their November 5, 2020 hearing to recommend approval.

9. **Second Reading of Ordinance No. 156, 2020 Amending the Zoning Map of the City of Fort Collins by Changing the Zoning Classification for that Certain Property known as the Northstar Manufactured Housing Community 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 December 1, 2020, amends the City's Zoning Map to change the zoning designation for the North Star Manufactured Housing Community (MHC), one of six properties containing manufactured housing communities proposed to be rezoned to the Manufactured Housing (M-H) zone district to support manufactured housing preservation. This rezoning request has been initiated by the City of Fort Collins.

North Star MHC is located at 1700 Laporte Avenue and the zoning is proposed to change from the Low Density Mixed-Use Neighborhood (LMN) zone district to a combination of the Manufactured Housing (MH) zone district and the Low Density Mixed-Use Neighborhood zone district.

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 5-1 at their November 5, 2020 hearing to recommend approval.

10. **Second Reading of Ordinance No. 157, 2020 Amending the Zoning Map of the City of Fort Collins by Changing the Zoning Classification for that Certain Property Known as the Skyline Manufactured Housing Community 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 December 1, 2020, amends the City's Zoning Map to change the zoning designation for the Skyline Manufactured Housing Community (MHC), one of six properties containing manufactured housing communities proposed to be rezoned to the Manufactured Housing (M-H) zone district to support manufactured housing preservation. This rezoning request has been initiated by the City of Fort Collins.

The Skyline MHC is located at 2211 West Mulberry Street and the zoning is proposed to change from the Low Density Mixed-Use Neighborhood (LMN) zone district to a combination of the Manufactured Housing (MH) zone district and the Low Density Mixed-Use Neighborhood zone district.

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 5-1 at their November 5, 2020 hearing to recommend approval.

11. **Second Reading of Ordinance No. 158, 2020 Amending the Zoning Map of the City of Fort Collins by Changing the Zoning Classification for that Certain Property Known as the Harmony Village Mobile Home Park 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, amends the City's Zoning Map to change the zoning designation for the Harmony Village Manufactured Housing Community (MHC), one of six properties containing manufactured housing communities proposed to be rezoned to the Manufactured Housing (M-H) zone district to support manufactured housing preservation. This rezoning request has been initiated by the City of Fort Collins.

The Harmony Village MHC is located at 2500 East Harmony Road and the zoning is proposed to change from the Low Density Mixed-Use Neighborhood (LMN) zone district to the Manufactured Housing (M-H) zone district.

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 5-1 at their November 5, 2020 hearing to recommend approval.

12. **Second Reading of Ordinance No. 159, 2020 Amending the Zoning Map of the City of Fort Collins by Changing the Zoning Classification for that Certain Property Known as the Hickory Village Mobile Home Park 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 Second Reading on December 1, 2020, amends the City's Zoning Map to change the zoning designation for the Hickory Village Manufactured Housing Community (MHC), one of six properties containing manufactured housing communities proposed to be rezoned to the Manufactured Housing (M-H) zone district to support manufactured housing preservation. This rezoning request has been initiated by the City of Fort Collins.

The Hickory Village MHC is located at 400 Hickory Street and the zoning is proposed to change from the Low Density Mixed-Use Neighborhood (LMN) zone district to the Manufactured Housing (M-H) zone district.

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 5-1 at their November 5, 2020 hearing to recommend approval.

13. **Second Reading of Ordinance No. 160, 2020 Amending the Zoning Map of the City of Fort Collins by Changing the Zoning Classification for that Certain Property Known as the Pleasant Grove Manufactured Housing Community 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 December 1, 2020, amends the City's Zoning Map to change the zoning designation for the Pleasant Grove Manufactured Housing Community (MHC), one of six properties containing manufactured housing communities proposed to be rezoned to the Manufactured Housing (M-H) zone district to support manufactured housing preservation. This rezoning request has been initiated by the City of Fort Collins.

The Pleasant Grove MHC is located at 517 East Trilby Road and the zoning is proposed to change from the Low Density Mixed-Use Neighborhood (LMN) zone district to the Manufactured Housing (M-H) zone district.

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 5-1 at their November 5, 2020 hearing to recommend approval.

14. **First Reading of Ordinance No. 161, 2020, Making Various Amendments to the City of Fort Collins Land Use Code. (Adopted)**

The purpose of this item is to make amendments to the Land Use Code ("LUC"). There are proposed revisions, clarifications and additions to the LUC that address specific subject areas that have arisen since the last update was initiated in the Fall of 2019.

15. **First Reading of Ordinance No. 162, 2020, Conveying a Replacement Telecommunications Easement to Qwest Corporation d/b/a CenturyLink QCon at the City's Foothills Activity Center. (Adopted)**

The purpose of this item is to convey a replacement telecommunications easement to Qwest Corporation d/b/a CenturyLink QCon (CenturyLink) at the City-owned Foothills Activity Center ("FAC") as a result of an obligation associated with the replatting of the Foothills Mall and to replace a "blanket" easement granted in 1975. The easement accurately depicts CenturyLink's existing telecommunication line on the FAC parcel.

16. **First Reading of Ordinance No. 163, 2020, Approving the First Amendment to Ground Lease Agreement Between the Cities of Loveland and Fort Collins and Discovery Air, LLC, for Property at the Northern Colorado Regional Airport. (Adopted)**

The purpose of this item is to approve an amendment to the long-term aviation land lease agreement between the Cities of Fort Collins and Loveland (Cities) and Discovery Air, LLC signed in January of 2019. The lease terms included a (50) year lease for a large-scale aviation development project. The project has progressed since the execution of the original lease, and Discovery Air has obtained the necessary development approvals to continue pursuit of their development. Discovery Air has since determined it necessary to pursue a phased approach to its development and accordingly has requested that the Cities amend the original Lease. Due to the complexity and unique provisions of the original lease and this proposed amendment, the Northern Colorado Regional Airport Commission does not have the authority to approve and sign the Lease Amendment. The two Cities must each approve in accordance with their respective Municipal Codes and Charters. The Northern Colorado Regional Airport Commission reviewed the lease agreement amendment at its November 12, 2020, meeting, and unanimously recommended approval by the Councils.

The proposed Airport development includes the construction of corporate aircraft hangar facilities and associated office space, a potential aircraft support center, a restaurant, and all infrastructure to support these facilities. This lease amendment will allow success of the public-private partnership.

The Airport has approximately 200 acres of space available for aeronautical development. This proposal will use approximately 10% of the available land for what is considered to be the highest and best use of the property, which is in accordance with the Council adopted Airport Master Plan and Airport Commission Adopted Strategic Plan. The Airport will create revenues through lease payments from the property in addition to other revenues from the operations of the campus. The new buildings will create jobs and enhance the regional economic impact of the Airport.

17. **Resolution 2020-114 Finding Substantial Compliance and Initiating Annexation Proceedings for the Springer-Fisher Annexation No. 1. (Adopted)**

The purpose of this item is to determine substantial compliance and initiate annexation proceedings for the Springer-Fisher Annexation No. 1. The applicant has submitted a written petition requesting two sequential annexations. Springer-Fisher Annexation No. 1 is the first of two sequential annexations located northwest of the East Mulberry Street and Greenfields Court intersection. Annexation No. 1 is 71.34 acres in size and establishes the required 1/6 perimeter boundary contiguity with the existing City boundary to the north.

The requested zoning for this annexation is General Commercial (C-G), Neighborhood Commercial (N-C), Employment (E), Low Density Mixed-Use Neighborhood (L-M-N), and Medium Density Mixed-Use Neighborhood (M-M-N) in compliance with the City of Fort Collins Structure Plan and the East Mulberry Corridor Plan. Portions of the property located in the M-M-N and L-M-N zone districts would be placed within the Residential Neighborhood Sign District while portions of the property located in the E, N-C, and C-G zone districts would not be placed in the Residential Sign District. Notice to parcels abutting platted streets was provided pursuant to §31-12-105, C.R.S. No project development plan proposal was submitted in conjunction with the annexation application.

This annexation request is in conformance with the Colorado Revised Statute as it relates to annexations, the City of Fort Collins Comprehensive Plan, and the Larimer County and City of Fort Collins Intergovernmental Agreement Regarding Growth Management.

18. **Resolution 2020-115 Finding Substantial Compliance and Initiating Annexation Proceedings for the Springer-Fisher Annexation No. 2. (Adopted)**

The purpose of this item is to determine substantial compliance and initiate annexation proceedings for the Springer-Fisher Annexation No. 2. The Applicant has submitted a written petition requesting two sequential annexations. Springer-Fisher Annexation No. 2 is the second of two sequential annexations located northwest of the East Mulberry Street and Greenfields Court intersection. Annexation No. 2 is 5.46-acres in size and establishes the required 1/6 perimeter boundary contiguity with the extension of the municipal boundary created by the Springer-Fisher Annexation No. 1.

The requested zoning for this annexation is General Commercial (C-G) in compliance with the City of Fort Collins Structure Plan and the East Mulberry Corridor Plan and the property would not be included in the Residential Sign District. Notice to parcels abutting platted streets was provided pursuant to §31-12-105, C.R.S. No project development plan proposal was submitted in conjunction with the annexation application.

This annexation request is in conformance with the Colorado Revised Statute as it relates to annexations, the City of Fort Collins Comprehensive Plan, and the Larimer County and City of Fort Collins Intergovernmental Agreement Regarding Growth Management.

19. **Resolution 2020-116 Making Appointments to the Downtown Development Authority Board. (Adopted)**

The purpose of this item is to appoint individuals to fill vacancies that currently exist on the Downtown Development Authority Board.

● **CONSENT CALENDAR FOLLOW-UP**

Councilmember Gutowsky welcomed the three new members who were appointed to the Downtown Development Authority Board via Item No. 19, *Resolution 2020-116 Making Appointments to the Downtown Development Authority Board.*

● **STAFF REPORTS**

Staff Report: Community Dashboard Metrics - City Employee Safety Metrics (staff: Claire Goodwin)

City Manager Atteberry stated this staff report relates to the Community Dashboard metric of City Employee Safety, which is tracked by the City's Safety and Risk Management Office.

Claire Goodwin, Safety and Risk Management Senior Manager, stated the City organization embodies its safety vision of creating the safest workplace in America by supporting the concept that safety matters as much as getting the job done. She outlined the variety of programs provided to City employees that emphasize safety from day one and discussed the 'near miss reporting' indicator that aims to gather and fix issues before they lead to injury. Additionally, she discussed the lagging indicator of injury and illness reporting that allows for resource prioritization.

Goodwin outlined the two metrics related to safety: the City's total reportable injury and illness rate, which is an Occupational Safety and Health Administration standard metric across the country, and the days away restricted or transferred rate, which is an indicator of more significant issues. Goodwin discussed the Safety Partner Program and other components of the safety program.



City Manager Atteberry noted the City is not only striving to be the safest government, but the safest workplace in the country.

Councilmember Cunniff noted this effort is also related to leadership in the community.

Councilmember Gutowsky noted concern about safety reflects the care the City has for its employees.

● **COUNCILMEMBER REPORTS**

Councilmember Pignataro reported on the lights at the Gardens on Spring Creek and on the virtual legislative breakfast with Senator Ginal and Representatives Arndt and Kipp.

Councilmember Gutowsky reported on a visit to the mental health exhibit at the Museum of Discovery and on a tour of the new Police training facility at the Northern Colorado Regional Airport.

Councilmember Summers reported on his tour of the Police training facility.

Mayor Pro Tem Stephens reported on a conversation with Scouts on local government and on the menorah lighting in Old Town Square. She provided a slide of mental health resources available in the community.

Mayor Troxell reported on the menorah lighting ceremony and on the weekly meeting with Larimer County Health Director Tom Gonzales. He encouraged citizens to remain vigilant during the holidays and to remember to shop locally. He also commented on the City's partnership with NoCo Nosh to keep delivery fees down, mentioned the legislative breakfast, and commented on proclamations he issued earlier in the meeting. He also discussed the new Police training facility.

Councilmember Gutowsky thanked community members for their efforts at decreasing COVID in the community.

● **DISCUSSION ITEMS**

20. **Resolution 2020-117 Making Findings of Fact and Conclusions of Law Regarding the Appeal of the Landmark Preservation Commission's Determinations of Landmark Eligibility for 724 and 726 South College Avenue. (Adopted)**

*The purpose of this item is to make findings of fact and conclusions regarding the appeal of the Landmark Preservation Commission's Determinations of Landmark Eligibility for 724 and 726 South College Avenue. The appeal was heard by Council on December 1, 2020. The Council voted to overturn the Commission's decision.*

Mayor Pro Tem Stephens made a motion, seconded by Councilmember Pignataro, to adopt Resolution 2020-117.

Councilmember Cunniff stated he would support the motion despite his dissenting vote at the appeal hearing. He commented on the need for Council to focus strictly on Land Use Code issues during appeals.

Mayor Pro Tem Stephens stated she would support the motion despite her dissenting vote as the resolution is a finding of fact representing what happened at the appeal hearing. She commented

on the need for future historic preservation noting Fort Collins is a city with a great deal of vernacular architecture.

Councilmember Gutowsky stated she would support the motion despite her dissenting vote at the appeal hearing. She discussed the importance of the history of older buildings in the community.

Mayor Troxell commented on the importance of looking at historical resources from a contextual perspective and on prioritizing historical resources.

<b>RESULT:</b>	<b>ORDINANCE NO. 117, 2020 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

21. **First Reading of Ordinance No. 164, 2020, Authorizing the City Manager to Execute an Agreement with the Developer of Montava for the Annual Use of Up to 25 Acre-Foot of Water of Fort Collins Utilities in a Plan for Augmentation for a Potable Water Supply for the Montava Property. (No Action Taken)**

The purpose of this item is to consider a perpetual agreement between HF2M Inc., the Developer of Montava (Developer), and Fort Collins Utilities (Utilities). Under the agreement, in exchange for cash payments, Utilities would annually deliver up to 25 acre-feet of augmentation water from the City's Rigden Reservoir in southeast Fort Collins to the Poudre River. The Developer (and successor entities) would use the augmentation water to replace the steam depletions from groundwater wells that would provide a potable water supply for Montava. The cash payments and water deliveries contemplated in the agreement are contingent on the Developer acquiring various City and Water Court approvals.

<b>RESULT:</b>	<b>WITHDRAWN</b>
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22. **Resolution 2020-118 Giving Staff Direction on Next Steps for City Council Adoption of Plastic Pollution Mitigation Strategies. (Adopted)**

*The purpose of this item is to present a Resolution to Council that directs staff to prepare an ordinance for Council adoption, with anticipation that Council refers the adopted ordinance to the April election.*

*Based on Council feedback to date, the ordinance will include a hybrid approach, banning plastic bags and putting a fee on paper bags at all large grocers.*

Molly Saylor, Senior Environmental Planner, stated Council is being asked to consider a resolution to direct staff to develop a plastic pollution ordinance and related ballot language. She discussed the policy elements on which this is based and noted plastic pollution is a Council priority which aligns with specific strategic objectives. Saylor stated staff will bring a draft ordinance including these policy elements and optional language banning expanded polystyrene take-out containers at chains and/or franchise restaurants to the January worksession.

(Indecipherable name) discussed macro-plastic pollution and noted food wrappers are the top plastic pollutants in oceans and rivers. He stated no public industrial compostable facilities exist in or near Fort Collins and requested Council consider setting up such a facility and provide associated public education. He also discussed micro-plastic pollution, specifically caused by the laundering of synthetic clothing. He encouraged the City to consider promoting awareness and

incentives for homes, hotels, laundromats, and dry cleaners to install filtering devices on laundry machines.

Kim Miller encouraged the formation of a strong public education program should plastic grocery bags be banned. She commented on the need for a comprehensive plan to combat plastic pollution and encouraged the City to promote circular economies with things such as reusable takeout containers. She also encouraged the City to work with legislators on statewide legislation.

Councilmember Cunniff thanked the speakers for their suggestions and noted Council's initiative to reduce plastic pollution remains an important Council priority. He commended the variety of ideas.

Mayor Troxell commended the speakers and stated those broader perspectives are important. He commented on the use of single-use bags in trash cans and stated there could be a more thoughtful approach to the zero-waste strategy than simple punitive measures. He also discussed the importance of being proactive with regard to equity and opposed placing any measure on the ballot at this time.

Councilmember Summers stated large grocers would rather see a statewide initiative as managing a variety of regulations across municipalities is difficult. He also stated grocers would prefer to see a fee for the use of bags rather than an outright ban. He commented on paper bags using more water, being more expensive to produce, and taking up more landfill space. He also stated this is not the right time to deal with this issue given the financial impact of COVID on businesses. He questioned how Fort Collins is going to analyze the success of its efforts.

Councilmember Pignataro stated this has been a Council priority since May of 2019 and she noted the referendum takes the impact of COVID into account by pushing off enforcement until May of 2022. She supported its placement on the ballot.

Mayor Troxell asked what data will be tracked. Saylor replied staff is proposing to track the presence of litter and the associated proportion of plastic bags in natural areas over time. Additionally, the distribution of different types of bags over time will also be tracked, as is done in other communities.

Mayor Troxell asked about the single-use bags in office wastebaskets. Saylor replied this ordinance specifically addresses plastic bags from grocers and would not impact liner bags. She stated staff has identified best practices from other cities that working specifically on grocery bags tends to be what covers the majority of what ends up in the environment.

Councilmember Gutowsky noted liners are filled with trash prior to going to the landfill whereas the grocery bags often blow free. She asked if this ordinance would address plastic bags used in department stores. Saylor replied the existing language is limited to large grocers.

Councilmember Gutowsky asked if it would be possible for Council to add items to the list of banned single-use plastic bags without an additional referendum. City Attorney Daggett replied Council would retain the power to make adjustments after approval of the referendum by voters.

Councilmember Gorgol stated this is part of a comprehensive policy. She commended the idea of offering rebates for micro-plastic catchers for washing machines. She suggested ensuring ballot language is clear but supported expanding a plastic bag ban for all retailers.

Councilmember Summers asked if the polystyrene ban would apply to cups as well. Saylor replied Council's direction was only related to take-out containers.

Councilmember Summers questioned how success in the future will be evaluated if there is no clear indication of where we are in the present. Jackie Kozak-Thiel, Chief Sustainability Officer, replied staff would work to establish as much baseline data as possible prior to the 2022 implementation.

Councilmember Summers stated regulations and policies are not necessary just because Council establishes a priority. He stated passage of this referendum would result in Fort Collins being the only municipality in Colorado to ban single-use plastic bags.

Councilmember Cunniff stated one of the advantages of taking this approach is that adjustments can be made if data does not match the hypothesis. He noted there is data that shows a plastic bag ban does reduce plastic pollution and collecting additional data in Fort Collins will empower future Councils to continue to adjust their approach to the problem.

Councilmember Pignataro asked about the income-qualified fee exemption. Saylor replied staff will bring more specific language to the January worksession; however, other communities tie those exemptions to things like WIC benefits.

Councilmember Gutowsky concurred with Councilmember Summers that success can only be assessed with a clear indicator of what is being measured.

Mayor Troxell concurred and stated the scope of the topic is also important noting all single-use plastic bags should be considered.

Mayor Pro Tem Stephens stated she did have some concerns about the timing of this; however, postponing the start until May of 2022 alleviates some of her concerns. She encouraged additional research on equity and supported starting with large grocers in these efforts.

Mayor Troxell stated there is a great deal of environmental consciousness in the community and efforts have already begun with retailers offering different options. He stated working on circular economies and post-consumer waste as it relates to packaging would be a more effective direction.

Mayor Pro Tem Stephens made a motion, seconded by Councilmember Cunniff, to adopt Resolution 2020-118, with the hybrid model for large grocers with wording including income exceptions.

Councilmember Cunniff stated he would support adding in some possible future dates by which Council could decide to extend the ban on plastic bags to other retailers and could extend language related to take-out containers.

Mayor Troxell questioned why the plastic bag language should extend only to retailers and not to businesses. Councilmember Cunniff replied retailers are the only metric with data and it is easier to quantify a specific impact with respect to retailers versus generic use of single-use plastics by businesses. He stated keeping the language more focused is more appropriate at this time; however, plastic pollution should continue to be addressed. He noted wastebasket liners are typically weighed down by their contents by the time they reach the landfill, as opposed to retail

plastic bags which easily blow away. He noted these bags are not purchased products but are convenience services being provided by retailers.

Councilmember Pignataro asked if other communities researched by staff have considered bans on business use of plastic bags. Saylor replied there are few examples of communities banning the use of intentionally purchased liners.

Councilmember Gutowsky asked about the difference between retailers and businesses. Councilmember Pignataro replied retailers provide customers with bags as a secondary item as opposed to businesses which may use bags as primary items; however, she stated she would like primary use bags to ultimately be addressed in the future.

Councilmember Cunniff suggested the use of 'point of sale' bags in the language.

Mayor Troxell asked if the City would still provide pet waste bags along trails. Councilmember Cunniff replied he believes that is an independent discussion and Council could provide direction on that independently.

City Attorney Daggett clarified the resolution calls for a ban on distribution of single-use plastic bags and a fee on paper bags applicable to large retail grocers in Fort Collins, to commence May 1, 2022. She stated it sets caps on the fee aspect, the amount of the fee that would come to the City, and does provide an exemption for low-income residents. It also provides for suspension of the program as deemed necessary due to public health emergencies or other unforeseen circumstances and requires monitoring and reporting on equity impacts, compliance, and outcomes.

Mayor Troxell asked how large retail grocers would be defined. City Attorney Daggett replied definitions have yet to be determined; however, there are examples from other communities from which staff can begin to formulate draft language.

Councilmember Cunniff made a motion to amend to change item A of section 2 to utilize language from the 2014 bag ordinance relating to 'point of sale' bags while still retaining the large retail grocer definition.

City Attorney Daggett stated the 2014 ordinance defines 'retailer' as any person selling, leasing, or renting tangible personal property or services at retail that provides disposable bags to customers. She further detailed the definition of 'disposable bag' as a bag, other than a reusable bag, provided to a customer at a check-out stand, cash register, point of sale, or other point of departure, by any retailer for the purpose of transporting and carrying away items purchased at the retail location.

Mayor Pro Tem Stephens accepted the amendment as being friendly.

Councilmember Gorgol asked if the language as written would still allow for the expansion of the ban to all retailers in the future. City Attorney Daggett replied the resolution as written would not direct staff to include language about other potential businesses that would be subject to this regulation; however, Council would not be legally prohibited from doing that on its own in the future.

Councilmember Gorgol stated she would like to include some language related to directing staff to return with options for expansion.

Mayor Pro Tem Stephens and Councilmember Cunniff accepted that language inclusion as being friendly.

Councilmember Cunniff questioned whether voter authorization is needed for Council to engage in strategies to reduce or eliminate expanded foam take-out containers. City Attorney Daggett replied there is nothing that would preclude Council from engaging in such strategies other than whatever external limits there might be from state or federal provisions.

City Attorney Daggett read the motion as she captured it, including certain language suggestions she made.

Mayor Troxell commented on his desire to keep the language specific.

City Attorney Daggett noted additional specificity and options could be provided at the January worksession.

Mayor Troxell also recommended including what other communities in the waste shed are doing regarding single-use plastic bags.

Mayor Troxell questioned why littering enforcement is not sufficient to address this issue. City Attorney Daggett replied more details could be provided at the worksession, but the challenge with litter enforcement is that it is difficult to determine who caused litter to occur.

Councilmember Cunniff and Mayor Pro Tem Stephens accepted the City Attorney's language changes as friendly.

City Attorney Daggett asked if Council would like to see options related to take-out containers and other single-use plastics.

Councilmember Cunniff stated his preference would be to limit the ballot measure to bags only and, as part of the overall Council strategy on reducing plastic pollution, staff can bring forth other reduction mitigation measures in the future. Councilmembers Gutowsky and Pignataro concurred.

Mayor Troxell stated he would oppose the motion as he would prefer a more systemic and innovative approach.

<b>RESULT:</b>	<b>RESOLUTION 2020-118 ADOPTED [5 TO 2]</b>
<b>MOVER:</b>	Kristin Stephens, District 4
<b>SECONDER:</b>	Ross Cunniff, District 5
<b>AYES:</b>	Pignataro, Gorgol, Gutowsky, Stephens, Cunniff
<b>NAYS:</b>	Summers, Troxell

● **OTHER BUSINESS**

Councilmember Cunniff noted his term on the Platte River Power Authority Board expires at the end of December and a successor will need to be appointed in January. He stated he would be willing to continue to serve but requested staff bring forth a resolution in January to appoint a representative.

Mayor Troxell and Mayor Pro Tem Stephens supported Councilmember Cunniff continuing to serve on the PRPA Board until the end of his Council term.

Councilmember Pignataro noted both the Mayor and Councilmember Cunniff will have terms on the Board ending in April with their Council terms and questioned the plan of succession. Mayor Troxell noted the previous representatives had been the Mayor and the Light and Power Director and he suggested that is a conversation Council should have with the City Manager.

City Manager Atteberry noted Mayor Pro Tem Stephens' departure from Council will also leave a vacancy on the Poudre Fire Authority Board and he stated he will ask Council to make an appointment so as to avoid a meeting being missed.

Councilmembers commented on the need to fill other positions. Mayor Pro Tem Stephens noted other Councilmembers who may have an interest in serving on Boards could attend as members of the public.

City Attorney Daggett commented on the City language that replaces individuals on Boards should Council not take other specific action. She stated staff can bring forth a resolution with blanks for appointees for various Boards that may need appointments to be filled.


• **ADJOURNMENT**

Consideration of a motion to adjourn this meeting to 6.00 p.m. on Tuesday, December 22:

Mayor Pro Tem Stephens made a motion, seconded by Councilmember Cunniff, that Council adjourn this meeting to 6:00 p.m. on Tuesday, December 22, for consideration of items relating to the Council Vacancy Process and such other business as may come before the Council.

<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

The meeting adjourned at 9:08 PM.



Mayor

ATTEST:



City Clerk



