

March 16, 2021

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, Potyondy, Gutowsky, Summers, Troxell, Cunniff

STAFF: Atteberry, Daggett, Coldiron

● **AGENDA REVIEW: CITY MANAGER**

City Manager Atteberry stated Item No. 15, *Resolution 2021-031 Approving and Adopting the Our Climate Future Plan*, has been moved from the Consent to the Discussion Agenda. Item No. 16, *Resolution 2021-032 Authorizing the City Manager to Sign a Master License Agreement with Crown Castle USA, Inc. for Small Wireless Communication Equipment Attachments on City Facilities in Public Rights-of-Way*, has been withdrawn from consideration due to ongoing negotiations. Additionally, a staff report from Larry Schneider, Streets Superintendent, has been added.

● **PUBLIC COMMENT**

Mayor Troxell outlined the public participation options.

Jerry Gavaldon commended City Manager Atteberry on his work and sincere service for the City.

Eric Sutherland stated the citizens of Fort Collins were provided a business plan for Connexion that showed it could cash flow its debt and stated the current available data could not be construed to conclude there is any way for the entity to pay operations and interest on the debt right now. He commented on the secrecy surrounding the project to date.

● **PUBLIC COMMENT FOLLOW-UP**

Mayor Troxell summarized the citizen comments and noted Connexion is still in its build-out phase and the monthly update includes accurate information on the progress of the project.

Mayor Pro Tem Cunniff stated he does believe Connexion is going to get to a fiscally sustainable point and stated it is time to start creating the final path to providing full transparency on take rates and revenues.

● **CONSENT CALENDAR**

Rich Stave withdrew Item Nos. 10, *Items Relating to Amending City Code Provisions Concerning the City's Self-Insurance Program and Fund, and Amending Related Code Provisions Concerning the City's Obligations to Defend and Indemnify its Employees*, and 11, *First Reading of Ordinance*

No. 045, 2021, Amending Section 23-354 of the Code of the City of Fort Collins Regarding Disposition of Land Bank Property, from the Consent Agenda.

Mayor Pro Tem Cunniff made a motion, seconded by Councilmember Gutowsky, to adopt and approve Item Nos. 1-9, 12-14, and 18-19 on the Consent Agenda.

RESULT:	CONSENT CALENDAR ADOPTED [UNANIMOUS]
MOVER:	Ross Cunniff, District 5
SECONDER:	Susan Gutowsky, District 1
AYES:	Pignataro, Gorgol, Potyondy, Gutowsky, Summers, Troxell, Cunniff

(Secretary's Note: Item No. 17 was inadvertently left off the motion to adopt the Consent Agenda, thereby necessitating the following motion.)

Mayor Pro Tem Cunniff made a motion, seconded by Councilmember Gorgol, to adopt Resolution 2021-033. The motion was adopted unanimously.

RESULT:	RESOLUTION 2021-033 ADOPTED [UNANIMOUS]
MOVER:	Ross Cunniff, District 5
SECONDER:	Susan Gutowsky, District 1
AYES:	Pignataro, Gorgol, Potyondy, Gutowsky, Summers, Troxell, Cunniff

1. **Consideration and Approval of the Minutes of the February 16, 2021 Regular meeting and the February 23, 2021 Adjourned meeting. (Adopted)**

The purpose of this item is to approve the minutes of the February 16, 2021 Regular meeting and the February 23, 2021 Adjourned meeting.

2. **Second Reading of Ordinance No. 035, 2021, Reappropriating Funds Previously Appropriated in 2020 But Not expended and Not Encumbered in 2020. (Adopted)**

This Ordinance, unanimously adopted on First Reading on March 2, 2021, adopts to reappropriate monies in 2021 that were previously authorized by Council for expenditures in 2020 for various purposes. The authorized expenditures were not spent or could not be encumbered in 2020 because:

- There was not sufficient time to complete bidding in 2020 and therefore, there was no known vendor or binding contract as required to expend or encumber the monies; or
- The project for which the dollars were originally appropriated by Council could not be completed during 2020 and reappropriation of those dollars is necessary for completion of the project in 2021.

Additionally, there may have been sufficient unspent dollars previously appropriated in 2020 to carry on programs, services, and facility improvements in 2021 for those specific purposes.

In the above circumstances, the unexpended and/or unencumbered monies lapsed into individual fund balances at the end of 2020 and reflect no change in Council policies.

Monies reappropriated for each City fund by this Ordinance are as follows:

General Fund	\$912,543
Keep Fort Collins Great Fund	226,690
Cultural Services Fund	55,000
Wastewater Fund	35,000
Total	<u>\$1,229,233</u>

3. **Second Reading of Ordinance No. 036, 2021, Making a Supplemental Appropriation for Grants to Fort Collins Utilities Commercial Water Customers for Water Conservation Landscape Transformation Projects. (Adopted)**

This Ordinance, unanimously adopted on First Reading on March 2, 2021, appropriates unanticipated grant revenue in the amount of \$70,000 awarded by the United States Department of Interior, Bureau of Reclamation ("Reclamation") to the Fort Collins Utilities Water Conservation Division ("Water Conservation"). The funds will support commercial-scale waterwise landscape transformations through the Xeriscape Incentive Program (also known as "XIP"). Eligible participants of the program include but are not limited to homeowners' associations ("HOAs"), businesses, religious organizations, government entities, schools, and other Fort Collins Utilities commercial water customers.

4. **Second Reading of Ordinance No. 037, 2021, Appropriating Prior Year Reserves and Making Supplemental Appropriations for the Utilities Locating Department. (Adopted)**

This Ordinance, unanimously adopted on First Reading on March 2, 2021, is to provide supplemental resources in the 2021 budget for the Utilities Locating Department. Utilities has a regulatory obligation to fulfill underground facility locating requests within 48 hours of notification and the current volume of locating requests exceeds the normal capacity of Department resources. This appropriation will provide additional resources to contract for third party services to meet locating request obligations in 2021.

5. **Second Reading of Ordinance No. 038, 2021, Establishing Rental Rates and Delivery Charges for Use of Water Available Under Fort Collins Utilities' Raw Water Interests for 2021 Through March 2024. (Adopted)**

This Ordinance, unanimously adopted on First Reading on March 2, 2021, to obtain Council approval for the proposed formulas for calculating rental rates and delivery charges for Fort Collins Utilities' (Utilities) raw water supplies for approximately three years, which includes proposed rental rates and delivery charges for fully consumable water. The rates and charges would be effective through March 2024, to address the gap between the end of 2023 and Council approval of new rates and charges in early 2024. Setting the rates and charges via formula ensures Utilities will recoup its costs for rented water while increasing the planning certainty for the water rental community.

Staff is recommending an increase in the rental rate for fully consumable water. This increase will only impact customers of our year-to-year leasing program. The increase reflects the cost of administering these rentals and is in line with market conditions for this type of water. This is the only significant change to the rental rates and delivery charges.

6. **Second Reading of Ordinance No. 039, 2021, Making Supplemental Appropriations and Appropriating Prior Year Reserves for the South Timberline Road Improvements Project - Stetson Creek Road to Trilby Road and Related Art in Public Places. (Adopted)**

This Ordinance, unanimously adopted on First Reading on March 2, 2021, enables the City to receive and use federal Surface Transportation Block Grant funds for the South Timberline Improvement Project - Stetson Creek to Trilby (the "Project"), to appropriate those funds and Transportation Capital Expansion Fee ("TCEF") Fund reserves to fully fund the Project, and to appropriate Transportation Services Fund reserves to satisfy the City's Art in Public Places program contribution requirements. This will authorize the Mayor to sign an intergovernmental agreement with the Colorado Department of Transportation ("CDOT") to receive and use the federal grant funds and will appropriate \$4,556,542 into the Capital Projects Fund for the Project. These funds will be used for the construction of roadway improvements along Timberline Road from Stetson Creek Drive to Trilby Road. Finally, a transfer of \$18,435 from the Project to the Cultural Services and Facilities Fund will be made for the required Art in Public Places program contribution.

7. **Second Reading of Ordinance No. 040, 2021, Amending the Land Use Code Regarding Exterior Lighting. (Adopted)**

This Ordinance, unanimously adopted on First Reading on March 2, 2021, approves changes to the exterior lighting standards in the City Land Use Code for new commercial and multi-family development projects. The goals of the update are to ensure adequate light levels for safety and commerce; update technical criteria to align with current industry metrics; better control the various aspects of light pollution (overlighting, glare, light trespass); and require contextually appropriate lighting plans that result in lower lighting in areas with lower nighttime activity (Natural Areas and residential areas), and higher lighting levels in areas with higher nighttime activity (Downtown and commercial corridors).

8. **First Reading of Ordinance No. 041, 2021, Appropriating Unanticipated Philanthropic Revenue Received by City Give for Transfer to Natural Areas for Restoration of Bobcat Ridge. (Adopted)**

The purpose of this item is to appropriate \$75,000 in philanthropic revenue in the General Fund through City Give for transfer to Natural Areas to support fire recovery and ecological restoration efforts at Bobcat Ridge Natural Area as designated by the donor, the D.R. & V. Pulliam Charitable Trust.

9. **First Reading of Ordinance No. 042, 2021, Authorizing the Issuance of the City of Fort Collins, Colorado Tax-Exempt Economic Development Revenue Bond (The Residence At Oakridge Project), Series 2021A and Taxable Economic Development Revenue Bond (The Residence At Oakridge Project), Series 2021B to Refund the City of Fort Collins, Colorado Variable Rate Economic Development Revenue Bonds, Series 2001A (The Residence At Oakridge Project); and Authorizing the Execution and Delivery by the City of a Financing Agreement, Bonds, and Other Documents in Connection Therewith. (Adopted)**

In 2001, the City issued its City of Fort Collins, Colorado Variable Rate Economic Development Revenue Bonds, Series 2001A (The Residence at Oakridge Project), in the original aggregate principal amount of \$3,555,000 (the "2001A Bonds"). The 2001A Bonds financed a portion of the costs of a 68-bed assisted living facility in the Oakridge Business Park (the "Project"). The proceeds of the 2001A Bonds were loaned by the City to The Residence @ Oakridge, LLC, a Florida limited liability company (the "Borrower") which owns the Project. The Borrower has requested that the City issue its Tax-Exempt Economic Development Revenue Bond (The Residence At Oakridge Project), Series 2021A and Taxable Economic Development Revenue Bond (The Residence At Oakridge Project), Series 2021B (collectively, the "2021 Bonds") to refund the 2001A Bonds to take advantage of current low interest rates. The Borrower has solicited proposals from various financial institutions and has determined that First American State Bank (the "Lender") will provide the lowest interest rate and most

favorable terms to the Borrower. This Ordinance will authorize the issuance of an amount not to exceed \$2,415,000 of economic development revenue bonds for the Project.

Economic development revenue bonds may be issued by the City pursuant to the County and Municipality Development Revenue Bond Act (the "Act"), constituting §§ 29-3-101 through 29-3-123 of the Colorado Revised Statutes ("C.R.S), for private activity purposes, such as the Project. **These 2021 Bonds are not a financial obligation of the City and will be repaid solely by payments from the Borrower. The issuance of the 2021 Bonds does not require the use of any of the City's private activity bond allocation from the State. And, there is no fiscal impact on the City in connection with the issuance of the 2021 Bonds and the Borrower will pay all of the City's costs and attorney fees for the refunding either from proceeds of the 2021 Bonds or its own resources.**

10. **Items Related to Post-Fire Watershed Restoration Treatments and Operational Costs Associated with Treating Fire-Impacted Water Supplies. (Adopted)**

The purpose of this item is to consider the second reading of an appropriation of funds for the unanticipated needs of post-fire watershed restoration treatments and operational costs associated with treating water supplies impacted by the 2020 Cameron Peak wildfire. Additionally, Staff will also provide a resolution for an Intergovernmental Agreement for cost-sharing with partnering public water providers to address the needed post-fire watershed restoration treatments

This AIS summarizes the current and anticipated impacts from the 2020 Cameron Peak wildfire on water quality, water treatment and water supply planning, and expected funding needs for post-fire watershed restoration and to support water treatment operations in 2021.

11. **First Reading of Ordinance No. 048, 2021, 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") to: (1) clarify the appeal process to the Planning and Zoning Board for minor amendments, changes of use, and basic development review; and (2) allow one additional kitchen within a dwelling unit. These changes were separated out from the annual update in December of 2020 to provide greater public input and refinement of the proposed Code.

12. **First Reading of Ordinance No. 047, 2021, Appropriating Prior Year Reserves in the Light and Power Fund for Electric Utilities Customer Payment Assistance. (Adopted)**

The purpose of this item is to consider appropriation of a "one-time cash distribution" of \$468,941 from Platte River Power Authority (PRPA) to be used for utility delinquencies through the Utilities Payment Assistance Program for electric and telecommunication utility customers economically affected by COVID-19 and to address the impact on rates that significant past-due and uncollectible balances may have on all electric and other utility ratepayers. The funds were deposited into the Light & Power Enterprise Fund in December 2020, and may only be used for that utility's operations, maintenance, repair, replacement, or betterment or for another "specific utility purpose determined by Council to [benefit the utility's ratepayers]".

13. **Resolution 2021-033 Approving Fort Fund Grant Disbursements. (Adopted)**

The purpose of this item is to approve Fort Fund grants from the Cultural Development and Programming Account and the Tourism Programming Account for the selected community events in the Project Support II category, based upon the recommendations of the Cultural Resources Board.

14. **Resolution 2021-034 Renaming a Portion of Brightwater Drive to Windward Way. (Adopted)**

The purpose of this item is to rename a portion of Brightwater Drive that was originally named on the Water's Edge plat to Windward Way. The new street name will aid in wayfinding for emergency services by allowing a proper sequence of assigned addresses.

15. **Resolution 2021-035 Finding Substantial Compliance and Initiating Annexation Proceedings for the Gil Boyer Annexation. (Adopted)**

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

The purpose of this item is to initiate annexation proceedings for the Gil Boyer Annexation. This is a voluntary annexation initiated by the property owner. The property contained within the annexation area is approximately 9,800 square feet and is located at 241 North Taft Hill Road, approximately 475 feet northwest of the intersection of Laporte Ave and North Taft Hill Road. The proposed zoning for this annexation is Low Density Mixed Use Neighborhood (L-M-N).

The proposed Resolution makes a finding that the annexation petition substantially complies with the Municipal Annexation Act of 1965, determines that a hearing should be established regarding the annexation, and directs notice be given of the hearing. The hearing will be held at the time of First Reading of the annexation and zoning ordinances, and notice will be published and distributed as required by State law. This annexation request is in conformance with the State of Colorado Revised Statutes as they relate to annexations, the City of Fort Collins Comprehensive Plan, and the Larimer County and City of Fort Collins Intergovernmental Agreement Regarding Growth Management.

● **CONSENT CALENDAR FOLLOW-UP**

Mayor Pro Tem Cunniff stated Item No. 13, *First Reading of Ordinance No. 047, 2021, Appropriating Prior Year Reserves in the Light and Power Fund for Electric Utilities Customer Payment Assistance*, currently allows for using the PRPA money for payment of delinquent Connexion bills and he stated his preference would be for that to be solely focused on electric utility bills. He requested staff provide some options to ensure that intent is clear.

● **STAFF REPORTS**

- A. **Staff Report: Utility Bill Delinquencies** (staff: Lisa Rosintoski, Lance Smith, Gretchen Stanford, Lori Clements)

Lisa Rosintoski, Customer Connections Deputy Director, stated staff is recommending resuming utility disconnects on May 3rd. She noted all utility disconnects have been on hold due to the pandemic and she outlined the communication efforts provided to delinquent customers. She outlined the various funding assistance and payment arrangement options for customers. She

discussed the magnitude of the trajectory and impact of uncollected revenues noting many area municipalities have resumed disconnects.

Mayor Troxell commented on the benefits of the funding provided by Platte River Power Authority.

Councilmember Pignataro noted there are about 2,700 households eligible for disconnects and asked how many of the delinquent accounts may be related to renters moving out or other communication issues. Rosintoski replied about 5% of accounts typically fall into that category. She noted customers are given a seven-day notice prior to disconnection and provided details about the process staff uses to reinstate service.

Councilmember Gorgol asked about the response rate from the last round of disconnect letters. Rosintoski replied about 60% of those customers got in touch to arrange for assistance or payments and service was subsequently not disconnected. She noted those with current eligible disconnects have received the second notice but have not yet received the seven-day notice, after which approximately 60% typically respond.

Councilmember Gorgol asked what percentage of the uncollected revenue is on a payment plan and how staff reaches out to the 40% of people who do not respond to the seven-day notice. Rosintoski replied staff has done a call tree to those residents in the past and could do so again.

Councilmember Gutowsky asked if reconnect fees are waived. Rosintoski replied in the affirmative.

Councilmember Gutowsky asked what occurs if individuals default on payment plans. Rosintoski replied staff will continue to work with individuals on delinquency.

Councilmember Gutowsky asked if there is ever a tipping point at which the number of delinquent accounts exceed the revenue needed to function. Rosintoski stated staff is trying to be very judicious in working with customers who are eligible for disconnect given the average of uncollected revenue is \$300,000-\$600,000 per year and the current amount is \$1.8 million.

B. Staff Report: Winter Storm Update (staff: Larry Schneider)

Larry Schneider, Streets Superintendent, discussed the recent storm during which the city received 20-25 inches of snow, ranking it as one of the top four storms in the city's history. He discussed the challenges of removing that much moist snow and detailed the snow removal process throughout the city. He discussed the challenges with downed tree branches as well.

Kendra Boot, City Forester, stated a preliminary assessment of downed branches around arterial and collector streets has occurred. She noted it remains difficult to access residential areas to

assess them. She noted the urban forest storm response plan will help to categorize clean-up efforts moving forward.

City Manager Atteberry commended the work of city staff during the storm and noted the clean-up effort will likely cost over \$1 million.

Mayor Troxell commended the work of staff and requested citizens remain patient as snow and branch removal occurs. He also commended the decision made long ago to underground Fort Collins' electric system.

Councilmember Potyondy commended the snow clearing work and stated she had a constituent specifically commend the work to clear in front of driveways.

Councilmember Gutowsky commended the snow removal work and commented on snow clearing work and asked why certain streets in neighborhoods were not cleared while others were. Schneider replied entire neighborhoods should be cleared at once but may be interrupted due to equipment issues.

Councilmember Pignataro commended the snow removal work. She mentioned the website that tracks the snowplows.

Mayor Pro Tem Cunniff commended the heroic effort around snow clearing and noted some of the windrows that are blocking driveways may have been created by a well-intended citizen who plowed the roadway. He suggested the City may try to address those areas as well.

City Manager Atteberry thanked Council for providing higher-level policy support.

- **COUNCILMEMBER REPORTS**

Mayor Troxell reported on the recent design charette for the new terminal building at the Northern Colorado Regional Airport. He noted a large part of the funding for that building is from the CARES Act.

Councilmember Gutowsky reported on the ribbon cutting for the Northern Colorado Police Training Center.

Councilmember Potyondy reported on a joint listening session she hosted with Councilmember Gorgol on affordable and attainable housing.

● **DISCUSSION ITEMS**

16. **738 Campfire Drive Extra Occupancy Appeal. (Adopted)**

*The purpose of this item is to consider an appeal of the Administrative Hearing Officer's Decision, on December 18, 2020, approving the 738 Campfire Drive Extra Occupancy Rental House #FDP 200018 to permit not more than 4 occupants. A Notice of Appeal was filed on January 4, 2021 alleging the Hearing Officer failed to properly interpret and apply Land Use Code (LUC) Section 3.2.2(C)(4)(b) regarding the number and type of required bicycle parking spaces. The Appellant alleges the Hearing Officer's Decision approving the project did not meet the **number** of bicycle parking spaces required by the LUC and that the **type** of bicycle parking spaces approved do not meet the LUC definition of fixed bicycle parking spaces.*

Mayor Troxell outlined the quasi-judicial nature of this item and his determination that remote participation by Councilmembers remains to be allowed.

City Attorney Daggett outlined the appeal process.

Paul Sizemore, Interim Community Development and Neighborhood Services Director, provided the staff overview related to the appeal of an administrative hearing officer decision to approve an extra occupancy rental house, allowing up to four unrelated adult occupants, at 738 Campfire Drive, which is located in the Trailhead neighborhood. He stated the appeal specifically deals with the number and types of bicycle parking spaces proposed as part of the project; the site plan proposes three fixed bicycle parking spaces and a dedicated space inside the garage.

Sizemore stated the single allegation in the appeal is that the hearing officer failed to properly interpret and apply Land Use Code Section 3.2.2(C)(4)(b) and that the proposed extra occupancy rental house does not provide an adequate number of fixed bicycle parking spaces, and that the proposed bicycle parking does not meet the definition for fixed bicycle parking. Sizemore outlined the Land Use Code bicycle parking requirements and noted the Code was changed in January to make the per-bed bicycle parking requirement a per-occupant requirement; however, that was done after this application and therefore does not technically apply. The hearing officer did ask about this issue at the hearing; however, it was determined the bicycle parking requirement was met since the number provided matches the number of beds, which was the Code requirement in place at the time. Sizemore noted staff has been in touch with the applicant since the Code change and the applicant has agreed to provide four spaces consistent with the updated Code language based on the number of occupants.

Sizemore stated the other aspect of the allegation relates to the nature of the parking spaces provided, and that is not affected by the January Code change. He discussed the proposed bicycle parking in the garage and stated the appellant contends the wording of the Code establishes a clear expectation for what fixed bike rack parking should include and that the proposed interior wall-mounted bike parking does not meet that expectation. He outlined the role of the Council in this appeal.

Mayor Troxell noted a site visit had been scheduled for March 15th; however, it was cancelled due to the inclement weather. He asked if any Councilmember had an objection to proceeding without having a site visit and no objections were made.

Joseph Brown, appellant, identified himself.

Rosemary Beauvais identified herself as a party-of-interest and stated allowing this extra occupancy would be disruptive.

Mayor Troxell noted the bike parking is the subject of the appeal.

Noel Rodriguez (no last name given) identified himself as the tenant at 738 Campfire Drive and an opponent to the appeal.

Stephanie Golden identified herself as a party-of-interest opposing the appeal.

Jonathon Huynh identified himself as the owner of 738 Campfire Drive and an opponent to the appeal.

Mayor Troxell outlined the time allotments for the presentations and rebuttals.

Mr. Brown stated the essential argument of his appeal is that the hearing officer misinterpreted the Land Use Code related to the required number of bicycle parking spaces and location of the bike rack. He also expressed concern the granting of an extra occupancy permit is permanent. He stated the garage bicycle parking does not allow room for vehicle parking and commented on the impermanence of the proposed bicycle parking hooks. He stated neighbors have overwhelmingly opposed the extra occupancy permit.

Mr. Huynh stated he thought he had met all requirements after the hearing officer approval and noted he has since added a fourth bike hook.

Mr. Rodriguez discussed the history of the process to get the extra occupancy permit and noted the house remains three bedrooms with four occupants as he and his partner share a bedroom. He discussed the bike hook parking solution and outlined his efforts to meet all requirements.

Mr. Brown stated this neighborhood is not opposed to renters nor these tenants; however, he expressed concern that this is a permanent change and stated it seems this property is being shoehorned into a successful request. He requested a reconsideration of this application to meet Code requirements. He stated Mr. Huynh is an investor owner and must follow the law and applicable requirements.

Mr. Huynh stated he has attempted to make everything right and follow all applicable regulations.

Mr. Rodriguez stated the appeal is not about the permanence of the permit, but about the bike parking and stated the hooks were installed because that is what was necessary to meet requirements.

Mayor Troxell reviewed the appeal allegations and stated Council needs to consider whether the plain language of the Land Use Code provision 3.2.2(C)(4) is clear and unambiguous in the requirement of the number of required bicycle parking spaces and whether the provided bicycle parking in the garage meets the minimum land use requirements when reading the definitions of fixed and enclosed bicycle parking.

Mayor Pro Tem Cunniff stated his reading of the Code is that the length of the spaces should be 5.5 feet and questioned whether staff is advising that something that is significantly less than that is compliant with the Code. Will Lindsay, Associate City Planner, replied staff considered the 5.5 feet x 2.5 feet to be the footprint of the bicycle parking apparatus, which is essentially wall-mounted in this instance, in considering the dimensional standard requirement for a fixed bicycle parking facility. He stated staff found the proposal met the maneuverability requirement for a fixed bicycle facility as well.

Mayor Pro Tem Cunniff expressed concern length is not being interpreted as a horizontal dimension in this case and questioned why this is deemed acceptable given a significant fraction of the population would not be physically able to lift a bicycle up on to a wall. Lindsay replied staff did not take that into consideration for this request but was considering the perspective of providing enclosed bike parking, which is considered superior to fixed bike parking and makes no mention of how the bikes must be stored.

Mayor Pro Tem Cunniff asked if the current version of the Code which allows extra occupancy units to provide a minimum of 0% enclosed but 100% fixed bicycle parking applied to this project. Lindsay replied in the affirmative.

Councilmember Pignataro asked if the extra occupancy bicycle parking regulations were written when the occupancy ordinance went into effect. Lindsay replied he would need to research that.

Councilmember Pignataro asked to whom an extra occupancy permit is granted. Lindsay replied extra occupancy is currently a use applied to the property itself and is not attached to an owner or occupant.

Councilmember Pignataro asked if there are bike trails in this part of town. Mr. Brown replied there are bike lanes down Vine and Timberline and the trails exist after the Mulberry crossing.

Councilmember Gutowsky asked if this property owner was granted a waiver to not provide an outdoor metal bike rack. Lindsay replied in the negative and stated staff's interpretation related to the fixed bicycle parking requirement being a minimum requirement with the provided enclosed bicycle parking in the garage being an enhancement.

Councilmember Gutowsky asked if adult sized bikes fit on the hooks. Mr. Rodriguez replied in the affirmative.

Councilmember Gutowsky asked if there is a limit on the number of homes that can apply for extra occupancy permits in the neighborhood. Lindsay replied, in the LMN zone district, it is a permitted use subject to a type I administrative review, and there is a limit of 25% of dwellings on a block face that can be approved for that use in this zone district.

Councilmember Gutowsky asked how this residence would be treated if the fourth resident needed a fourth bedroom. Lindsay replied it would be subject to a minor amendment and the site plan would need to be adjusted to ensure the fourth bedroom was meeting all requirements.

Councilmember Gutowsky asked if this permit requires this home to always be a rental. Lindsay replied in the negative.

Councilmember Summers asked if the Code requires homeowners to also meet bicycle parking requirements. Lindsay replied in the negative stating there is no bicycle parking requirement for a single-family homeowner. He noted this requirement only applies to a property seeking an extra occupancy approval for which there is a minimum bicycle parking requirement. City Attorney Daggett noted there is a general provision in the Land Use Code related to bicycle parking that applies to a variety of different approvals.

Councilmember Summers asked if the bicycle parking is required regardless of whether tenants have bicycles. Lindsay replied in the affirmative. He reiterated there is no requirement for, nor prohibition of, providing parking in a garage in the case of extra occupancy permits.

Councilmember Potyondy asked if tenants in these situations are expected to flex with Code changes or if they are grandfathered into requirements in place at the time an extra occupancy permit was issued. Lindsay replied the latter is the case.

Councilmember Potyondy stated indoor bicycle parking provides both security for the bicycles and improved aesthetics for neighbors.

Mayor Pro Tem Cunniff asked if the Code states enclosed bicycle parking is superior to fixed. Lindsay replied that has been the practice of staff; however, that specific wording is not codified.

Mayor Pro Tem Cunniff asked if this project would have been compliant with the Code if three outdoor bicycle parking spaces were provided. Lindsay replied in the affirmative.

Mayor Pro Tem Cunniff asked if there are requirements related to the visibility of fixed bicycle parking from the right-of-way. Lindsay replied in the negative and stated the main consideration outside of the required dimensional standards has been to keep bicycle parking outside of easements.

Mayor Troxell commented on the advent of bicycle parking requirements and on the merits of this particular situation. He noted the garage is unfinished and questioned whether that aspect is related to the durability and permanence of the solution. Lindsay replied staff did consider that and determined mounting the hooks into studs provided enough permanency without being detrimental to the structure itself.

Mayor Troxell asked if there was any input received from the new FC Moves Manager on this topic. Sizemore replied he spoke with the Interim FC Moves Manager who concurred with staff's implementation of the distinction between fixed and enclosed bike parking.

Mayor Troxell stated there may need to be more consideration of durability in the future.

Councilmember Potyondy agreed the bike hooks can be removed; however, she noted those hooks are specifically designed for hanging bikes long term. Lindsay replied that is his understanding of what was installed. Mr. Rodriguez confirmed that is what is in place.

Councilmember Gutowsky stated Mr. Brown is asking that the Code be applied as written rather than interpreted by staff on a case-by-case basis and she could understand that frustration.

Mayor Pro Tem Cunniff noted fixed bicycle parking allows the frame and both wheels to be locked to the structure and these hooks do not have that feature. Mayor Troxell noted the parking is secured through another means by being indoors.

Mayor Pro Tem Cunniff stated he would be more comfortable with a permanent floor-mounted rack that would allow three bicycles to be stored parallel to the vehicles and locked, or three outdoor spaces that meet the fixed bicycle parking definition.

Councilmember Summers asked about the relationship of the occupants of the house. Mr. Rodriguez replied the tenants all know each other and applied together to rent the property.

Mayor Pro Tem Cunniff noted this permit applies to the property, not to this owner or these specific tenants.

Mayor Troxell asked if the hearing officer properly interpreted and applied the Land Use Code Section 3.2.2(C)(4) regarding the number of bicycle parking spaces required in connection with the extra occupancy of this rental house by four individuals.

Mayor Pro Tem Cunniff replied in the affirmative noting there are three clearly defined bedrooms in the home. Councilmember Gorgol agreed and noted the per-bedroom requirement was in place at the time of this application.

Councilmember Pignataro commended the January Code change to a per-occupant requirement and stated this appeal has highlighted some additional issues that may need to be addressed. She agreed the hearing officer properly interpreted the Code.

Mayor Troxell noted the question now becomes whether the hearing officer properly interpreted and applied Land Use Code Section 3.2.2(C)(4) regarding the type of bicycle parking spaces required in connection with the extra occupancy of this rental house by four individuals.

Mayor Pro Tem Cunniff replied in the negative stating the bicycle hooks are not a permanent structure and do not provide the ability to lock bicycles. Additionally, he stated their dimensions do not meet Land Use Code definitions.

Councilmember Summers stated applying the requirements intended for outdoor bicycle parking to an indoor situation does not make sense and he agreed with the decision of the hearing officer.

Mayor Pro Tem Cunniff clarified he is not suggesting a requirement for an exterior bike rack inside the garage; however, other alternatives do exist.

Councilmember Pignataro agreed with the staff interpretation of the Code.

Councilmember Gorgol agreed with the staff interpretation of the Code and noted that, while the Code is prescriptive, there must be some room for flexibility. She stated this solution provides secure, adequate bicycle parking.

Councilmember Gutowsky stated this may be a situation in which the Code needs to be revisited; however, she would support the staff interpretation.

Mayor Pro Tem Cunniff made a motion, seconded by Councilmember Potyondy, that Council uphold the hearing officer's decision granting the extra occupancy request for 738 Campfire Drive and find that the hearing officer properly interpreted and applied the Land Use Code, and further moved, that based on the evidence in the record and presented at this hearing that the appeal is without merit and is hereby denied in its entirety.

Mayor Pro Tem Cunniff made a motion, seconded by Councilmember Gutowsky, to amend the motion to modify the hearing officer's decision to require the indoor bicycle parking to be modified to include three floor-mounted permanent fixtures that provide a space compatible with the Land Use Code dimensions and access for bicycle parking.

Councilmember Gorgol noted indoor bicycle parking requirements do not reference permanent fixtures and asked why Mayor Pro Tem Cunniff would like that stipulation. Mayor Pro Tem Cunniff replied the Land Use Code requires a minimum of 100% fixed parking for extra occupancy rentals.

Councilmember Pignataro stated she would not support the amendment as it is an exercise in attempting to meet a part of the Code she sees as being interpretable.

Councilmember Gutowsky noted there may be a time wherein future tenants may want to secure a bicycle by locking it.

Councilmember Gorgol stated she would not support the amendment as the applicants have already met their requirements.

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

THE MOTION FAILED.

Mayor Pro Tem Cunniff stated he would not support the main motion as it does not meet the Land Use Code requirement of 100% fixed bicycle parking.

Mayor Troxell stated he would support the motion but noted there has been value in this conversation.

City Attorney clarified the language of the motion.

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

(Secretary's Note: Councilmember Summers was absent for this vote.)

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

RESULT:	ADOPTED [4 TO 2]
MOVER:	Ross Cunniff, District 5
SECONDER:	Melanie Potyondy, District 4
AYES:	Pignataro, Gorgol, Potyondy, Troxell
NAYS:	Gutowsky, Cunniff
AWAY:	Summers

17. **Second Reading of Ordinance No. 027, 2021, Approving and Appropriating an Off-Cycle Funding Request Contingent on the Outcome of the April 6, 2021, Election, to Support Initial Implementation of Ordinance No. 026, 2021, Establishing Regulations Regarding Disposable Bags. (Adopted on Second Reading)**

This Ordinance, adopted on First Reading on March 2, 2021 by a vote of 6-1 (Nay: Summers), provides \$87,500 in funding to support the initial 2021 roll-out of the Disposable Bag Ordinance and the Waste Reduction Program, including outreach and engagement and making free bags available to the community.

Rich Stave stated this is well-intentioned but questioned whether the approach is the best and is in the best interest of citizens.

Councilmember Pignataro requested staff input regarding Mr. Stave's comments. Molly Saylor, Environmental Sustainability Senior Specialist, replied the \$0.12 fee was based on a fee study conducted to look at the cost of this program. The neutral split between the City and the grocers allows for additional exploration of actual costs to grocers and grocers are required to create a plan for how to use the fee revenue with the City.

Victoria Shaw, Sustainability Services Senior Financial Analyst, replied the City will retain \$0.06 of each bag fee and revenues will be less than \$800,000 per year at their peak with expected related costs to the City ranging from \$800,000 to \$1.4 million per year.

Councilmember Summers noted there is no pro forma showing those revenues or costs.

Mayor Pro Tem Cunniff made a motion, seconded by Councilmember Gutowsky, to adopt Ordinance No. 027, 2021, on Second Reading.

Councilmember Summers stated he would not support the motion given the timing and the amount of the request.

Mayor Troxell asked how this issue would be reconciled with state regulations should they pass the legislature. Tyler Marr, IES Deputy Director, replied he is not prepared to speak wholly to that legislation; however, the bill currently contains language allowing municipalities to exceed the state regulations. He stated he would follow-up with additional details.

Councilmember Pignataro noted adjustments could be made as this ordinance would place the City ahead of the game.

Councilmember Summers stated the City's regulations would not be compatible with the state law if it goes forward as proposed as the state law would be more restrictive; therefore, some type of reconciliation will be required should it pass. Judy Schmidt, City Attorney's Office, stated the current language allows municipalities to charge more than \$0.10 and enact an ordinance that is as stringent or more stringent than the state law. She noted several aspects of the bill remain unclear and it may or may not pass in its current form. She also noted the bill would remove the statewide preemption in 2023.

Councilmember Summers asked why the preemption would need to be removed if it does not apply to home-rule cities. Schmidt replied it preempts some local government action; however, it is not clear that it preempts home-rule municipalities.

Mayor Troxell stated he would support the motion but hopes the ballot measure does not pass.

RESULT:	ORDINANCE NO. 027, 2021 ADOPTED ON SECOND READING [6 TO 1]
MOVER:	Ross Cunniff, District 5
SECONDER:	Susan Gutowsky, District 1
AYES:	Pignataro, Gorgol, Potyondy, Gutowsky, Troxell, Cunniff
NAYS:	Summers

18. **First Reading of Ordinance No. 049, 2021, Repealing and Reenacting Chapter 2, Article III of the Code of the City of Fort Collins Relating to Boards and Commissions. (Adopted on First Reading)**

The purpose of this item is to update Chapter 2, Article III of the City Code based on the Council priority to Reimagine Boards and Commissions. These Code changes are intended to reduce barriers to participation, increase consistency and clarity, and avoid redundancy.

Elizabeth Blythe, Senior Public Engagement Specialist, stated these changes are a result of Council's 2019 adopted priority to enhance advisory committees to ensure value for both Boardmembers and Councilmembers so that Council receives timely and useful advice from diverse perspectives. She outlined the process that has led to these changes and discussed the goals of reducing barriers to participation on Boards and Commissions and improving efficiency and consistency in the Code and Boards and Commissions program. Blythe detailed the proposed changes included in the Ordinance.

Rich Stave agreed some restructuring around Boards and Commissions is needed. He questioned the definition of joint meetings and asked if remote participation is an option. He also stated 24-hour meeting notice is too short and questioned why recordings of Boards and Commissions meetings are not available.

Eric Sutherland stated it does not appear the current Boards and Commissions have any impact on the policies of the City of Fort Collins.

Mayor Troxell stated the Boards and Commissions play an important role in advising Council and there are frequently more qualified individuals who have applied for Boards than Council is able to appoint. He thanked Blythe for her work on keeping this item before the current Council.

Mayor Pro Tem Cunniff noted joint meetings have a specific definition and notice requirements and are all open to the public. City Attorney Daggett concurred and noted the 24-hour notice requirement is currently in the Code and is consistent with state law.

Mayor Pro Tem Cunniff made a motion, seconded by Councilmember Gorgol, to adopt Ordinance No. 049, 2021.

Mayor Pro Tem Cunniff commended the changes and stated the flexibility should help encourage a more diverse set of applicants.

Councilmember Potyondy commended the changes.

Councilmember Gutowsky thanked Blythe for her work and interview coordination.

Councilmember Gorgol stated she would support the motion but stated she remains curious to see if the changes will result in a better structure and more participation. She requested a follow-up in a year to see if the desired outcomes are occurring.

Councilmember Summers stated there are some items he would still like to see addressed but commended the changes to this point.

RESULT:	ORDINANCE NO. 049, 2021 ADOPTED ON FIRST READING [UNANIMOUS]
MOVER:	Ross Cunniff, District 5
SECONDER:	Emily Gorgol, District 6
AYES:	Pignataro, Gorgol, Potyondy, Gutowsky, Summers, Troxell, Cunniff

19. **Resolution 2021-031 Approving and Adopting the Our Climate Future Plan. (Adopted as Amended)**

The Our Climate Future Plan has been revised to consistently and accurately represent community quotes associated with each Big Move and associated with Plan Ambassador and Community Partner features. Several small typos and grammatical errors were also addressed with this revision.

The purpose of this item is consideration of a resolution adopting the Our Climate Future Plan, which describes thirteen Big Moves and a flexible portfolio of related Next Moves, a two-year community review and calibration cycle and updated energy and waste goals.

The Our Climate Future Plan presents implementation strategies to simultaneously address climate, waste and energy goals and improve our community equity and resilience outcomes. The Plan articulates an unwavering commitment to mitigating climate change with a systems-approach, centering solutions in people and community priorities, and implementing the Big Moves in an evergreen review cycle.

Molly Saylor, Environmental Sustainability Senior Specialist, stated the Our Climate Future plan will rely on the entire community. She discussed the primary outcomes affected by the plan and noted the work touches every strategic outcome area. She noted the Our Climate Future plan has been the joint update to the Climate Action Plan, Energy Policy, and Road to Zero Waste plan. She stated Council's adoption of Our Climate Future means adopting the implementation structure and process as well as revised waste and energy goals.

John Phelan, Senior Energy Services Manager, stated Our Climate Future demonstrates a systematic approach to intensify the community efforts aimed at achieving three primary environmental goals.

Rich Stave commented on the cost of the plan to this point and mentioned increasing electric rates. He stated there are things the average citizen is going to have to give up for the plan to work.

Emily Gallishote supported the two recommended changes to Our Climate Future: specifically,

reviewing the climate goals and milestones in 2022 rather than waiting until 2024, and naming Broadcom specifically as the sole IPPU contributor in town.

Eric Sutherland commented on the previously made commitments of taxpayer dollars and stated Fort Collins should be further along in these efforts given those investments. He touted the benefits of simpler projects over planning.

Councilmember Potyondy commended the work on the plan and asked about any future plans for composting. Saylor replied getting organic waste out of the waste stream is a critical path item and will be worked toward through the regional waste shed.

Mayor Pro Tem Cunniff thanked staff for the changes made based on the work session feedback and outlined suggested changes provided by the Fort Collins Sustainability Group.

Mayor Pro Tem Cunniff made a motion, seconded by Councilmember Gorgol, to adopt Resolution 2021-031, as amended to include suggested wording changes.

Councilmember Gorgol stated she would support the motion and thanked Mayor Pro Tem Cunniff for the proposed edits.

Mayor Troxell commended combining the three areas and stated opportunities to leverage community assets should continue to be explored. He commented on waste energy.

RESULT:	RESOLUTION 2021-031 ADOPTED AS AMENDED [6 TO 1]
MOVER:	Ross Cunniff, District 5
SECONDER:	Emily Gorgol, District 6
AYES:	Pignataro, Gorgol, Potyondy, Gutowsky, Troxell, Cunniff
NAYS:	Summers

Motion to Suspend the Rules to Continue Past 10:30 PM to Complete the Remaining Agenda Items.

Mayor Pro Tem Cunniff made a motion, seconded by Councilmember Pignataro, to suspend the rules to continue past 10:30 PM to complete the remaining agenda items.

RESULT:	MOTION ADOPTED [UNANIMOUS]
MOVER:	Ross Cunniff, District 5
SECONDER:	Julie Pignataro, District 2
AYES:	Pignataro, Gorgol, Potyondy, Gutowsky, Summers, Troxell, Cunniff

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

20. **Items Relating to Amending City Code Provisions Concerning the City’s Self-Insurance Program and Fund, and Amending Related Code Provisions Concerning the City’s Obligations to Defend and Indemnify its Employees. (Adopted on First Reading)**

- A. First Reading of Ordinance No. 043, 2021, Amending Division 3 in Article III of Chapter 8 of the Code of the City of Fort Collins Concerning the City’s Self-Insurance Program and Fund.

B. First Reading of Ordinance No. 044, 2021, Amending Division 6 in Article VII of Chapter 2 of the Code of the City of Fort Collins Concerning the City's Defense and Indemnity of its Employees in Certain Civil, Criminal and Administrative Matters

The purpose of these two ordinances is to update the City Code provisions concerning the City's use of its Self-Insurance Program and Fund to pay judgments, settlements, attorney fees and other litigation costs related to the various civil claims that can be brought against the City and its employees and, related to this update, amending the City Code provisions addressing the City's obligations to defend and indemnify its employees regarding such civil claims and, in some circumstances, to reimburse City employees for the attorney fees and costs they may incur in certain criminal matters related to their City employment.

The amendments to the City's defense and indemnity obligations include adding provisions to recognize the defense and indemnity obligations the City has to its police officers under two Colorado statutes, including the recent statute enacted under Senate Bill 20-217 creating a new civil claim against police officers for violating a person's rights under the Bill of Rights in the Colorado Constitution. Also added is a provision to reimburse City employees in some circumstances for the attorney fees and costs they may incur in certain administrative matters related to their City employment.

Rich Stave asked if contractors are included in the indemnification process and questioned some of the wording associated with the ordinance.

Mayor Troxell requested staff input regarding Mr. Stave's questions. John Duval, Deputy City Attorney, replied this does not cover the City's contractors. He outlined the situations in which the City would be responsible for indemnifying employees for the costs of their attorney's fees and other related costs.

Mayor Pro Tem Cunniff made a motion, seconded by Councilmember Gorgol, to adopt Ordinance No. 043, 2021, on First Reading. Yeas: Potyondy, Troxell, Cunniff, Gutowsky, Pignataro, Summers and Troxell. Nays: none.

RESULT:	ORDINANCE NO. 043, 2021 ADOPTED ON FIRST READING [UNANIMOUS]
MOVER:	Ross Cunniff, District 5
SECONDER:	Emily Gorgol, District 6
AYES:	Pignataro, Gorgol, Potyondy, Gutowsky, Summers, Troxell, Cunniff

Mayor Pro Tem Cunniff made a motion, seconded by Councilmember Gorgol, to adopt Ordinance No. 044, 2021, on First Reading. Yeas: Potyondy, Troxell, Cunniff, Gutowsky, Pignataro, Summers and Troxell. Nays: none.

RESULT:	ORDINANCE NO. 044, 2021 ADOPTED ON FIRST READING [UNANIMOUS]
MOVER:	Ross Cunniff, District 5
SECONDER:	Emily Gorgol, District 6
AYES:	Pignataro, Gorgol, Potyondy, Gutowsky, Summers, Troxell, Cunniff

21. **First Reading of Ordinance No. 045, 2021, Amending Section 23-354 of the Code of the City of Fort Collins Regarding Disposition of Land Bank Property. (Adopted on First Reading)**

The purpose of this item is to replace the right of reverter clause in the Land Bank program with a more flexible requirement that can be tailored to each project. Currently, the right of reverter would allow the City to seize property if the Land Banking Code requirements are not met, but this possibility makes it difficult, if not impossible, for developers of affordable housing to obtain financing for their projects on Land Bank parcels. The proposed amendments to City Code in the Ordinance retain the requirement that the City secure permanent affordability to the greatest extent possible, through a deed restriction, covenant or such others instrument or instruments as the City Manager and City Attorney deem appropriate but do not lock the City into one remedy for non-compliance.

Rich Stave commented on deed restrictions and restrictive covenants. He asked if there would be some process more palatable than a deed restriction that could be used and asked who signs off on deed restrictions.

Mayor Troxell requested staff input regarding Mr. Stave's comments. Ingrid Decker, Senior Assistant City Attorney, stated this item would change the nature of the restriction on the property, but would not change the public nature of it. She noted any document would be recorded and the affordability of the project would still be protected.

Mayor Pro Tem Cunniff made a motion, seconded by Councilmember Gutowsky, to adopt Ordinance No. 045, 2021, on First Reading.

RESULT:	ORDINANCE NO. 045, 2021 ADOPTED ON FIRST READING [UNANIMOUS]
MOVER:	Ross Cunniff, District 5
SECONDER:	Susan Gutowsky, District 1
AYES:	Pignataro, Gorgol, Potyondy, Gutowsky, Summers, Troxell, Cunniff

● **OTHER BUSINESS**

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

Councilmember Gorgol stated she saw a request on the Leadership Planning Team notes for staff to provide some clarity and direction for policy work related to manufactured housing. She stated two items have yet to be addressed: zoning for the manufactured housing parks that are partly zoned commercial and reviewing Code changes to provide local enforcement of the House Bill changes that were passed. She requested and received Council support to move forward with those items.

B. Consideration of a motion to cancel the Tuesday, April 6, 2021 Regular Council meeting:

Mayor Pro Tem Cunniff made a motion, seconded by Councilmember Potyondy, that Council cancel its regular meeting of April 6, 2021, pursuant to City Code Section 2-28(a), in light of the City Election to be held this day.

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

C. Consideration of a motion to adjourn this meeting to 6:00 pm on Tuesday, March 23, 2021:

Mayor Pro Tem Cunniff made a motion, seconded by Councilmember Gorgol, that Council adjourn this meeting to 6:00 pm on Tuesday, March 23, to consider any other such business that may come before Council.

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

• **ADJOURNMENT**

The meeting adjourned at 10:53 PM.



Mayor

ATTEST:



City Clerk

