

April 20, 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**

Spanish interpretation options were outlined by City Manager Atteberry and the Spanish interpretation team.

City Manager Atteberry stated a community report on the American Rescue Plan and Infrastructure from Congressman Neguse has been added to the agenda. Additionally, Item No. 8, *Second 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*, has been pulled from the Consent Agenda to enable Council to consider adding a recital to the ordinance related to remote Board meetings. Item No. 17, *First Reading of Ordinance No. 059, 2021, Further Amending the Land Use Code Regarding Exterior Lighting*, was amended to correct errors, Item No. 29, *Resolution 2021-045 Adopting a Revised Policy for Reviewing Service Plans of Metropolitan Districts*, was amended to include exhibits and revisions to the proposed process, Item No. 30, *First Reading of Ordinance No. 064, 2021, Appropriating Prior Year Reserves for the Establishment of a Municipal Immigration Legal Defense Fund*, has been withdrawn from consideration to allow for additional work, and an item was added under Other Business regarding evaluation of City options for 1041 regulatory powers.

Mayor Troxell outlined the public participation options.

● **COMMUNITY REPORT ON THE AMERICAN RESCUE PLAN AND INFRASTRUCTURE FROM CONGRESSMAN NEGUSE**

Congressman Joe Neguse commented on the benefits of the American Rescue Plan, aimed at assisting in COVID recovery, for Fort Collins and northern Colorado. He noted the Plan includes about \$2.1 billion in local relief and \$27 million to Fort Collins. Congressman Neguse also commented on the American Jobs Plan which will help jumpstart the economy, address the nation's infrastructure needs, make needed changes to energy and transportation systems, and help tackle the climate crisis. He mentioned the specific benefits to Fort Collins of the Wildfire Recovery Act and 21st Century Climate Conservation Corps.

Mayor Pro Tem Cunniff thanked Congressman Neguse for his work for Fort Collins and the region.

Councilmember Pignataro asked if there is a draft of the American Jobs Plan available for constituents to access and provide feedback. Congressman Neguse replied it is available on his web page.

Councilmember Gutowsky commended Congressman Neguse on his communication and availability.

● **PUBLIC COMMENT**

Claire Bouchard, Northern Colorado Continuum of Cares Governing Board Co-Chair, referenced a letter from the Board acknowledging and thanking Mayor Troxell for his leadership and vision in supporting people experiencing homelessness, specifically veterans.

Eric Sutherland commented on information about the Connexion project being withheld from the public.

Phil (no last name given) commented on recent site plan advisory review (SPAR) processes for public projects stating they should be reserved for projects that make improvements on public property. He suggested Council consider pausing SPAR reviews until the process can be reviewed and analyzed.

Joshua Stahlings thanked Council for the work that has been put into considering the formation of an immigrant legal defense fund and requested Council consider its establishment as soon as possible.

Gary Wockner, Save the Poudre, opposed the Army Corps of Engineers permitting process for the Northern Integrated Supply Project and stated the City's use of a SPAR process for the project is unusable to regulate damage. He urged Council put a pause on all SPAR applications to allow for the creation of 1041 regulations or some other type of development review process.

Rich Stave commented on land ownership within the city and questioned the process used for disposition of assets, specifically land bank parcels.

Amy Hoeven expressed support for a legal defense fund for immigrants and encouraged Council to consider its establishment as soon as possible.

Melissa (no last name given) urged Council to put a moratorium on all SPAR applications until the process can be evaluated by the incoming Council.

Kieran (no last name given) commented on the decrease in the Poudre School District budget and increase in the Police Department budget as well as on discrepancies between teacher and officer salaries. He also commented on the cost of police vehicles.

Jolynn Beck requested Council not create a municipal immigration legal defense fund as it poses an equity issue.

Paul Gessler, Veterans for Peace, suggested Veteran's Plaza be renamed Veteran's Peace Park and commented on the impacts of militarism on society. He also suggested the homeless population be referenced as refugees.

● **PUBLIC COMMENT FOLLOW-UP**

Mayor Troxell summarized the citizen comments.

Councilmember Potyondy noted the City does not have a direct hand in school funding; however, she commended Kieran on his advocacy for teachers and recommended he reach out to state legislators.

Councilmember Gorgol requested staff follow-up on the SPAR process comments. City Attorney Daggett replied there are limits to the City's power under state law and a statute has been in place for several years related to SPAR process requirements. She commented on the process which calls for the review of the location, character, and extent of public projects.

Mayor Pro Tem Cunniff stated he will be bringing up a discussion about 1041 powers and the role those can play in city regulations of land use decisions during Other Business.

Councilmember Gorgol asked if the consideration of the immigrant legal defense fund has been rescheduled for a specific date. City Manager Atteberry replied in the negative and noted staff is intending to do some additional work and have discussions with the new Leadership Planning Team then get it scheduled as soon as possible.

City Manager Atteberry noted police vehicles cost on average \$50,000 per vehicle, not the \$200,000 figure mentioned during public participation.

Councilmember Pignataro asked about the process associated with land assets and how things even out if the land gains value in the future. Sue Beck-Ferkiss, Social Sustainability, replied land appreciation is used to the benefit of the land bank program and some increased value is used as subsidy for any subsequent affordable housing development.

Councilmember Pignataro requested additional information regarding Item No. 20, *First Reading of Ordinance No. 063, 2021, Authorizing the Sale of an 11.4-acre Parcel of Vacant Land Located at Meadow Springs Ranch*. Teresa Connor, Interim Utilities Executive Director, replied that piece of land is split off by the interstate and has been used by Terry Ranch for bison grazing; therefore, it seemed appropriate to make the land exchange to clarify ownership.

Councilmember Pignataro asked about the determination of fair market value for land sales. Connor replied the City's real estate staff appraises properties. City Attorney Daggett noted Council must approve by ordinance sales or conveyances of pieces of land and there are provisions related to requiring the payment of fair market value unless certain exceptions apply.

Councilmember Potyondy thanked the individuals who have spoken regarding the need for the immigrant legal defense fund and she expressed her support for its formation.

● **CONSENT CALENDAR**

Mayor Pro Tem Cunniff withdrew Item No. 28, *Resolution 2021-044 Making an Appointment to the Planning and Zoning Board*, from the Consent Agenda.

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

RESULT:	CONSENT AGENDA 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 March 2, 2021 Regular meeting. (Adopted)**

The purpose of this item is to approve the minutes of the March 2, 2021 Regular Meeting.

2. **Second 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)**

This item, unanimously adopted on First Reading on March 16, 2021, appropriates \$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.

3. **Second 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)**

This item, unanimously adopted on First Reading on March 16, 2021, authorizes the issuance of 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. 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.**

4. **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)**

- A. Second 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. Second 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.

These ordinances, unanimously adopted on First Reading on March 16, 2021, 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.

5. **Second 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)**

This Ordinance, unanimously adopted on First Reading on March 16, 2021, replaces 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.

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

This Ordinance, unanimously adopted on First Reading on March 16, 2021, appropriates 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]".

7. **Second Reading of Ordinance No. 048, 2021, Making Various Amendments to the City of Fort Collins Land Use Code. (Adopted)**

This Ordinance, unanimously adopted on First Reading on March 16, 2021, amends 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.

8. **Second Reading of Ordinance No. 050, 2021, Amending Chapter 22 of the Code of the City of Fort Collins to Add a New Article V. Concerning the Establishment of Tourism Improvement Districts. (Adopted)**

This Ordinance, unanimously adopted on First Reading on March 23, 2021, outlines the requirements to establish a Tourism Improvement District (TID). Visit Fort Collins (VFC) began exploring a TID based on engagement for the Tourism and Destination Master Plan. Due to the COVID-19 pandemic, hoteliers are looking for additional revenue streams. Lodging tax collections are down 47.6% through December 2020. A TID would allow hotels to levy an assessment or fee on all hotels that would allow the TID to undertake activities that would help increase demand for overnight visitation.

VFC contemplates a TID that would levy an assessment or fee on hotel businesses rather than the underlying property owner. This necessitates a local ordinance outlining the process for forming a TID, the powers of a TID, and TID governance, amongst others. If adopted by Council, VFC contemplates starting the formation process of a TID beginning in April with Council considering the TID in July.

9. **First Reading of Ordinance No. 051, 2021, Authorizing the City Manager to Accept a Grant Award and Comply with the Terms of the Grant, and Appropriating Unanticipated Grant Revenue in the Cultural Services & Facilities Fund from the Colorado Arts Relief Fund. (Adopted)**

The purpose of this item is to appropriate unanticipated grant revenue in the Cultural Services & Facilities Fund for the Lincoln Center operations. This appropriation includes \$100,000 of grant revenues awarded on February 7, 2021, provided by the State of Colorado through the Creative Industries Division of the Office of Economic Development to support personnel or business expenses.

10. **First Reading of Ordinance No. 052, 2021 Appropriating Prior Year Reserves in the Natural Areas Fund for the Purpose of Land Conservation, Visitor Amenities, Restoration and Other Related Natural Areas Stewardship Activities not Included in the 2021 Adopted City Budget. (Adopted)**

The purpose of this item is to appropriate \$5,000,000 in prior year reserves and unanticipated revenues in the Natural Areas Fund. These appropriations are for land conservation, visitor amenities and restoration of wildlife habitat, as well as other Natural Area Department stewardship activities to benefit the residents of Fort Collins.

11. **First Reading of Ordinance No. 053, 2021, Appropriating Prior Year Reserves in the General Fund for Cultural Development and Programming Activities and Tourism Programming. (Adopted)**

The purpose of this item is to appropriate \$252,818, of which \$199,364 is proposed for 2021 Cultural Development and Programming Activities (Fort Fund) and \$53,454 is proposed for 2021 Tourism Programming (Fort Fund) from a combination of Lodging Tax and Prior Year Reserves (unspent appropriations) in the General Fund Lodging Tax Reserves.

Lodging taxes are annually collected by the City for cultural development and tourism programming activities. Anticipated revenue is projected through each Budgeting for Outcomes (BFO) cycle and then adjusted annually as needed based on final actual collections. Due to the 2020 pandemic, lodging tax revenues collected came in \$595,613 below projected 2020 collections.

12. **First Reading of Ordinance No. 055, 2021, Authorizing Transfer of Funds from the Nature in the City Program and the Parks Department Operating Budget to the Spring Canyon Park Ponds Project. (Adopted)**

The purpose of this item is to transfer \$75,000 in funds that were previously appropriated in the 2021 Budget from the Nature in the City Program in the Capital Projects Fund and \$20,000 in funds that were previously appropriated in the 2021 Budget from the Parks Department operating budget in the General Fund into the Capital Projects Fund for the Spring Canyon Park Urban Ponds Project.

The proposed transfers of funds will pay for the design and construction of a bioswale and natural habitat system within the existing Spring Canyon Park that will improve wildlife habitat, reduce bacterial contamination of Spring Creek, provide an enhanced natural habitat within Spring Canyon Park and serve as an educational opportunity for the public to learn about natural treatment systems and the importance of minimizing waste input into natural streams. The total project cost is \$95,000.

13. **First Reading of Ordinance No. 056, 2021, Authorizing the City Manager to Accept a Grant Award and Agree to the Terms of the Grant and Making Supplemental Appropriations for the Can Do Colorado E-Bike Program. (Adopted)**

The purpose of this item is to request Council approval to appropriate funds to be later reimbursed by awarded grant funds and to authorize FC Moves to accept an awarded grant from the Can Do Colorado E-Bike Program and comply with the terms of that grant.

14. **First Reading of Ordinance No. 057, 2021, Making Supplemental Appropriations of Anticipated Revenue and Prior Year Reserves for the Epic Homes Program. (Adopted)**

The purpose of this item is to appropriate \$69,000 in grant funds from Bloomberg Philanthropies as part of the Bloomberg Mayor's Challenge award, and \$8,024 in interest earned on previous Bloomberg Mayor's Challenge grant funds, from the Fort Collins Utilities Light and Power Fund to be expended for the ongoing project management and operations of Epic Homes Program by Utility Services and to pay a sub-grant to Colorado State University for indoor environmental quality research. The Bloomberg Philanthropies funds come from (1) the 2021 grant installment of \$69,000 and (2) \$8,024 in interest earned on advanced Bloomberg Philanthropies funds from the Bloomberg Mayor's Challenge, as of December 31, 2020. Based on terms of the Bloomberg grant agreement, all advanced grant funds are subject to accruing interest, with such interest earned being reported on a semi-annual basis, and with such earnings used to further project goals as demonstrated in the agreement between Bloomberg and the City.

15. **First Reading of Ordinance No. 058, 2021, Appropriating Prior Year Reserves and Unanticipated Revenue from Philanthropic Donations Received by City Give for Various City Programs and Services as Designated by the Donors. (Adopted)**

The purpose of this item is to request appropriation of \$42,264 in philanthropic revenue received through the City Give program. These miscellaneous gifts to various City departments support a variety of programs and services and are aligned with both the City's strategic priorities and the respective donors' designation.

16. **First Reading of Ordinance No. 059, 2021, Further Amending the Land Use Code Regarding Exterior Lighting. (Adopted)**

The purpose of this item is to adopt the Lighting Context Area Map that is part of the Exterior Lighting Code unanimously adopted by Council by Ordinance No. 040, 2021, on March 16, 2021, and to insert effective dates in two places in the Exterior Lighting Code. The map is an integral component of the Exterior Lighting Code but was inadvertently excluded in Council materials during its adoption.

17. **First Reading of Ordinance No. 060, 2021, Amending Ordinance No. 116, 2020, to Extend the Suspension of Certain Provisions of the City's Land Use Code to Permit Temporary Use of Certain Non-Residential Buildings for Child Care Centers in Response to the COVID-19 Pandemic. (Adopted)**

The purpose of this item is to extend the end date described in Ordinance No. 116, 2020, which temporarily suspended certain provisions of the Land Use Code (LUC) to permit the temporary use of certain non-residential buildings for child care operations. The temporary suspension is set to end on May 28, 2021. This item would change the end date to August 31, 2021, to allow flexibility for remote summer school and other summer child care needs.

18. **Public Hearing and First Reading of Ordinance No. 062, 2021, Approving the Addition of Permitted Uses Associated with the East Park District Maintenance Facility Major Amendment MJA200003. (Adopted)**

This item is a quasi-judicial matter. If this item is considered on the consent agenda, a public hearing will be deemed to have been open and closed, with the only evidence considered being that set forth in this AIS and the attachments hereto, including the staff report. If this item is considered on the discussion agenda, it will be considered in accordance with the procedures described in Section 1(d) of the Council's Rules of Meeting Procedures adopted in Resolution 2019-064.

The purpose of this item is to consider the Addition of Permitted Uses (APU) for a development plan located in the Urban Estate Zone District.

- The development plan is for a City of Fort Collins Parks Department maintenance facility comprising a building with office and shop space, an outdoor storage yard, parking, fencing, landscaping, and improvements to adjacent recreation trails. The applicant is the City of Fort Collins Parks Department.
- The Urban Estate Zone does not list the proposed office/shop and outdoor storage uses as Permitted Uses, and so the development plan is required to include a request for Addition of Permitted Uses pursuant to Land Use Code (LUC) Section 1.3.4.
- This APU involves a proposed use permitted in one or more of the City's other zone districts and is proposed based solely on unique circumstances and attributes of the site and site development plan, which may be permitted under LUC Section 1.3.4(B).

Pursuant to Ordinance No. 079, 2020, Council authorized the remote hearing of this item in Resolution 2020-093 and the applicant has consented to having this item heard remotely.

19. **First Reading of Ordinance No. 063, 2021, Authorizing the Sale of an 11.4-acre Parcel of Vacant Land Located at Meadow Springs Ranch. (Adopted)**

The purpose of this item is to sell 11.4 acres of vacant City-owned land to Daniel R. Thiel, who has offered to purchase it. The fair market value and negotiated purchase price is \$13,680, and the deed contains a restriction prohibiting any advertising signs from being placed on the property. The sale is contingent on approval by Council. The close of escrow is expected to be May 18, 2021. Meadow Springs Ranch is operated by the City's Utilities department, and it has no current or identified future use for this parcel. They concur that it is in the best interest of the City to eliminate potential maintenance and liability issues that may arise with respect to the property by selling it to Mr. Thiel.

20. **Items Relating to Post-Fire Watershed Restoration Treatments and Operational Costs. (Adopted)**

- A. Second Reading of Ordinance No. 046, 2021, Making Supplemental Appropriations, Appropriating Prior Year Reserves, and Authorizing Transfer of Existing Appropriations for Post-Fire Watershed Restoration Treatments and Operational Costs Associated with Treating Fire-Impacted Water Supplies.

- B. Resolution 2021-037 Authorizing the City Manager to Sign an Intergovernmental Agreement with City of Greeley and Larimer County to Facilitate Cost-Sharing Processes for Post-Fire Watershed Recovery Activities.

This Ordinance, unanimously adopted on First Reading on March 16, 2021, appropriates 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. A change is being made to this Ordinance on Second Reading to clarify that the PILOT proceeds being transferred to the City's General Fund are not being appropriated for spending on post fire watershed treatments. Those proceeds will reside in the General Fund until a future municipal purpose is identified.

The Resolution authorizes an intergovernmental agreement (IGA) with the City of Greeley and Larimer County to facilitate the cost-sharing processes for post-fire watershed recovery activities. Details of this IGA were provided in the first reading Agenda Item Summary for the appropriation ordinance.

21. **Resolution 2021-038 Authorizing Certain Quasi-Judicial Land Use Hearings to be Conducted Remotely Pursuant to Ordinance No. 079, 2020, Including the Guardian Self Storage Project Development Plan Appeal, NE Prospect & I-25 Frontage Road Annexation and Zoning, NE Prospect & I-25 Rezone, Fort Collins-Loveland Water District Expansion and Addition of Permitted Use, and Timberline-International Addition of Permitted Use. (Adopted)**

The purpose of this item is to consider five exceptions to Ordinance No. 079, 2020, adopted by Council on June 16, 2020, to allow one appeal, one initial zoning, one rezoning and two additions of permitted use items to proceed to public hearings using remote technology.

Ordinance No. 079, 2020, authorizes Council and boards and commissions such as the Planning & Zoning Board (P&Z) to hear quasi-judicial items, but specifically *excludes from that authorization* decisions related to zoning/rezoning, appeals, and the addition of permitted uses. Ordinance No. 079, 2020, does, however, allow Council, by motion adopted by at least five Councilmembers, to authorize exceptions to such exclusion. To authorize remote hearings for the listed items, Council must find that such hearings are pressing and require prompt action and that virtual technology will provide for sufficient public participation and input. Ordinance No. 079, 2020, required that to be heard remotely, "a quorum of the Planning and Zoning Board or Council are present in the hearing room for the respective Quasi-Judicial Hearing Items, and the public may participate in person. Staff requests that Council forego the in-person requirement in authorizing these zoning/rezoning, appeal, and addition of permitted use matters to be heard due to the ongoing COVID-19 pandemic. At this time, Council and all boards and commissions have successfully held fully remote meetings, and the technological concerns that lead to the requirement in Ordinance No. 079, 2020, have been mitigated.

Appeal:

1. Guardian Self Storage Project Development Plan Appeal (*appeal of Planning & Zoning Board's decision to Council, scheduled for June 1*)

Initial Zoning:

2. NE Prospect & I-25 Frontage Road Annexation and Initial Zoning (*initiating resolution scheduled for May 4, P&Z recommendation scheduled for May 20, Council first reading scheduled for June 15*)

Rezoning:

3. NE Prospect & I-25 Rezone (*P&Z recommendation scheduled for May 20, Council first reading scheduled for June 15*)

Addition of Permitted Use (APU):

4. Fort Collins-Loveland Water District Expansion and Addition of Permitted Use (*in review and awaiting P&Z recommendation and Council final determination*)
5. Timberline-International Addition of Permitted Use (*in review and awaiting P&Z review*) and any appeal to City Council of the P&Z decision.

22. Resolution 2021-039 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 category, based upon the recommendations of the Cultural Resources Board.

23. Resolution 2021-040 Authorizing Execution of an Intergovernmental Agreement with the Colorado Department of Transportation for the FASTER Transit Program Grant for Fiscal Year 2021 to Fund Transfort's Flex Service. (Adopted)

The purpose of this item is to authorize Transfort to enter into an Intergovernmental Agreement with the Colorado Department of Transportation (CDOT). This agreement will result in the receipt of \$200,000 in grant funds through the Statewide Competitive Pool of the FASTER (Funding Advancement for Surface Transportation and Economic Recovery Act of 2009) Transit program for fiscal year (FY) 2021. City Transfort will be required to match the \$200,000 in grant funds with a \$200,000 local match. Both the grant and local match were appropriated through the 2021 BFO cycle and are accounted for in the approved 2021 Transfort budget.

24. Resolution 2021-041 Supporting the Grant Application by Fort Collins Utilities for the United States Department of the Interior, Bureau of Reclamation's WaterSMART Grants: Small-Scale Water Efficiency Projects for Fiscal Year 2021 and Authorizing the City Manager to Execute Agreements Regarding Such a Grant. (Adopted)

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

25. Resolution 2021-042 Making an Appointment to the Housing Catalyst Board of Directors. (Adopted)

The purpose of this item is to appoint one individual to fill a vacancy on the Housing Catalyst Board of Directors that exists due to the term expiration of a previous member.

26. Resolution 2021-043 Ratifying the Appointment of Hongyan Xiang to the Poudre River Public Library District Board of Trustees. (Adopted)

The purpose of this item is to recommend ratification of the appointment of Hongyan Xiang to the Poudre River Library District Board of Trustees. On January 6, 2021, Mr. Jeremy Rose submitted a letter of resignation, effective immediately. Mr. Rose's term was set to expire on February 28, 2021. The Library Selection Committee determined that Hongyan Xiang, who submitted an application in January 2021, should be appointed to fill the vacancy on the Board of Trustees.

● **CONSENT CALENDAR FOLLOW-UP**

Mayor Pro Tem Cunniff expressed support for Item No. 20, *First Reading of Ordinance No. 063, 2021, Authorizing the Sale of an 11.4-acre Parcel of Vacant Land Located at Meadow Springs Ranch*; however, he encouraged the incoming Council to look at Meadow Springs Ranch as a potential natural areas acquisition given its habitat value.

● **COUNCILMEMBER REPORTS**

Councilmember Summers commented on the conviction of Derek Chauvin and asked if the Community Impact Committee will be providing a report on local police practices. He also commented on today being the anniversary of the Columbine shooting and on the increased number of mass shootings throughout the country.

Councilmember Gorgol noted the Community Impact Committee has its last meeting next week and will be finalizing its report and suggestions thereafter.

Mayor Troxell reported on participating in a conversation about municipal government at Fossil Ridge High School. He also reported on the recent Northern Colorado Regional Airport meeting and on his participation in the Living Her Legacy recognition of impactful women in the community. He discussed the Code for America project.

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

27. **Second 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)**

This Ordinance, unanimously adopted on First Reading on March 16, 2021, updates 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.

City Manager Atteberry stated it was recently discovered that the new Code language which prohibits remote quasi-judicial hearings might be read to supersede the provisions in place with the emergency ordinance that allows remote hearings. He stated pulling this item will allow for the addition of language to address that issue.

Rich Stave stated joint board meetings create an intentional bias toward a specific program or idea. He also questioned whether individuals residing in the growth management area should be allowed to serve on a Board or Commission as they do not pay City property tax.

Mayor Troxell noted Boards and Commissions are advisory to Council.

Mayor Pro Tem Cunniff noted the growth management area tends to be a static area whereas City limits are frequently fluctuating with annexations. Additionally, most City revenues come from sales taxes which do not contemplate residency; therefore, residents of the growth management area should be able to serve on Boards and Commissions. City Attorney Daggett noted the growth management area provision is not new to the Code.

Mayor Pro Tem Cunniff made a motion, seconded by Councilmember Summers, to adopt Ordinance No. 049, 2021, on Second Reading as amended.

RESULT:	ORDINANCE NO. 049, 2021 ADOPTED AS AMENDED ON SECOND READING [UNANIMOUS]
MOVER:	Ross Cunniff, District 5
SECONDER:	Ken Summers, District 3
AYES:	Pignataro, Gorgol, Potyondy, Gutowsky, Summers, Troxell, Cunniff

28. **Resolution 2021-044 Making an Appointment to the Planning and Zoning Board. (Postponed to Date Uncertain)**

The purpose of this item is to appoint one individual to fill a vacancy on the Planning and Zoning Board that exists due to the resignation of a previous member.

Mayor Pro Tem Cunniff explained the confusion around this appointment.

Mayor Pro Tem Cunniff made a motion, seconded by Councilmember Gutowsky, to postpone consideration of this item until the new Council’s Leadership Team can establish a timeline that will ensure a good and fair process for this appointment.

Kathryn Dubiel supported Mayor Pro Tem Cunniff’s solution and expressed appreciation for his leadership around this contentious issue. She stated it is clear the appointment process needs to be reformed to be trusted by the public.

Jerry Gavaldon stated this item has come as a surprise and commended City Clerk’s Office staff for their assistance in gathering information for him. He commented on the role of Planning and Zoning Board members and stated he has been recognized for his fairness and focus on process in the past.

Barbara Denney expressed support for postponing consideration of this item based on late notification of changes.

Sara (no last name given) expressed support for postponing consideration of this item and asked about the process for keeping candidates updated on new developments with the appointment process.

RESULT:	POSTPONED TO DATE UNCERTAIN [UNANIMOUS]
MOVER:	Ross Cunniff, District 5
SECONDER:	Susan Gutowsky, District 1
AYES:	Pignataro, Gorgol, Potyondy, Gutowsky, Summers, Troxell, Cunniff

● **DISCUSSION ITEMS**

29. **Resolution 2021-045 Adopting a Revised Policy for Reviewing Service Plans of Metropolitan Districts. (Adopted)**

The purpose of this item is to revise the City’s current policy for reviewing service plans for metropolitan districts adopted by Council in Resolution 2019-016 on February 5, 2019 (2019 Policy). More specifically, to revise the 2019 Policy to require a pre-application meeting with Council as an early step in the approval process, emphasize disclosure and transparency requirements, and add an evaluation points system for the public benefits to be provided by metropolitan districts (Metro Districts) proposed to serve primarily residential development.

Paul Sizemore, Interim Community Development and Neighborhood Services Director, stated this item is a proposed update to the residential metro district policy that would create a balanced and workable approach to ensure transparency for buyers in a metro district and to demonstrate the public benefits provided by a metro district rise to the level of being extraordinary while also offsetting the cost burden to residents.

Ryan Mounce, City Planner, detailed the proposed changes to the approval process, including requiring a new pre-application meeting with Council prior to a formal submittal and looking at a review cycle to evaluate the efficiency of proposed evaluation systems. He also detailed proposals for ensuring transparency for buyers.

Mounce stated the largest proposed change is the new evaluation system which would help define expectations and outcomes on how a residential metro district can demonstrate and provide extraordinary public benefits. He stated the system includes three main categories on which a metro district would be evaluated: housing, neighborhood livability, and energy and water conservation, and he provided additional details on the proposed system. He also discussed the public outreach process.

Eric Sutherland stated the City is ignoring statutes that require a one for one correspondence of a service plan for a metro district. He stated the City Attorney's Office has provided advice to Council that is averse to the interest of current and future citizens.

Bill Swalling thanked the City staff and Council for its guidance and assistance on metro district planning for the Saunders development. He commented on the alignment of the development with the City's strategic goals.

Gene (no last name given) commented on an existing metro district meeting many of the proposed criteria. He commended the collaborative process and ultimate recommendation of staff.

Melissa (no last name given) encouraged Council to be cautious with this vote and stated developers should continue to pay their own way moving forward.

Rich Stave commented on the state statute regarding specific areas wherein a metro district can be used to supply services and stated this does not seem to align with those criteria in all areas. He also questioned how metro districts can solve the housing affordability issue.

Susan McFaddin read a letter of support from the Energy Board for the proposed metro district policy.

Jerry Gavaldon commented on teaching a class on HOAs and metro districts for the Board of Realtors. He discussed the importance of transparency and full disclosure for buyers. He supported the staff proposal but recommended increasing the affordable and attainable housing requirement for metro districts.

Kevin (no last name given) discussed issues with metro districts in the Denver metro area and encouraged Council to disallow them.

Mayor Pro Tem Cunniff asked what changed with the update between now and when it went before Boards and Commissions in February. Mounce replied the main changes were primarily within the energy conservation section in terms of the required point totals and adding more prescriptive

options for meeting that requirement. John Phelan, Energy Services Manager, replied staff determined the point system did not match well to the practical pathways that exist for meeting and going above Code requirements. The new model includes four different pathways.

Mayor Pro Tem Cunniff asked about the feedback received from the Energy Board regarding the changes. Phelan replied the Board ultimately supported the changes with certain conditions that staff was able to include.

Mayor Troxell stated it is important that metro districts are an option and asked if there are appropriate mechanisms in place to encourage affordable housing. Mounce replied there was initially a consideration for an affordable housing requirement; however, that has been altered slightly and he provided additional details.

Mayor Troxell noted buyers must sign a metro district disclosure when purchasing a home in a metro district and stated most of the issues in the Denver metro area do not apply to Fort Collins due to its regulations. He discussed the possible inclusion of a review or curing period.

Councilmember Gutowsky asked if there is a provision for a minimum number of affordable homes to be built in a metro district. Mounce replied there is no specific affordability requirement; however, it is provided as one of the options to achieve the points in the overall housing category and that item requires 10% affordable units at 60% AMI.

Councilmember Gutowsky asked if that percentage could be increased. Mounce replied 10% is the overall goal for the percentage of affordable units in the city. Additionally, there are considerations in metro districts such as additional affordable housing units raising costs for market-rate units.

Councilmember Gutowsky requested additional information on why making metro district requirements too stringent would potentially drive off small developers. Mounce replied increasing the costs and complexity of development through metro districts or other requirements, there is a potential that only larger developers with additional resources would be able to take advantage of the tool.

Councilmember Gutowsky expressed concern about the lack of transparency between realtors and builders and homebuyers. She asked if there could be a sign-off process early in the purchase process. Mounce replied that concern has come up and there is currently notification earlier in the process.

Councilmember Gorgol agreed notification should occur well before closing and suggested some type of acknowledgement could be signed when an offer is being written. John Duval, Deputy City Attorney, replied the current draft of the service plan contemplates giving notice when a contract is signed, not at closing. He stated that requirement could be worked into the public service agreement.

Councilmember Gorgol stated it could be a good idea to work that into the public service agreement and noted some work should be done with realtors to ensure they are complying. She asked if the affordable housing is permanently deed restricted or deed restricted for 20 years. Mounce replied it is currently set at 20 years; however, he noted there is a vision in the Housing Strategic Plan to examine some of those timeframes in the future.

Councilmember Pignataro commented on her goal of making the metro district policy more predictable and she stated this is a big step toward that. She asked how much current metro districts played into the point system and options. Mounce replied staff did a review of recently approved metro districts to see how they would align with the proposed evaluation system. Some met the system requirements and others were close.

Councilmember Pignataro asked when the clock starts for the proposed two-year review cycle. Mounce replied staff was considering the Code update cycle and some of those will be coming forward in the next year; therefore, the two-year cycle for metro districts would allow for the evaluation system to be adapted after those Codes are updated.

Councilmember Pignataro asked if Council must approve a metro district solely if it meets the point system requirements. Mounce replied meeting the evaluation system requirements does not guarantee a final approval; final approval for any metro district service plan is at the sole discretion of Council. He stated the evaluation system helps to provide predictability and guidance on what a metro district should be providing.

Councilmember Summers noted any homebuyer should be aware of the real estate tax liability they are incurring when they make an offer. He stated the two-year review cadence is more than adequate and any policy made should be good enough to last at least two years.

Councilmember Potyondy stated homebuyers should be fully aware of what commitments they are making; however, documentation can be complicated and if the expectation is that homebuyers are going to be informed consumers, there may need to be additional steps in place beyond providing documentation, particularly when there is going to be variation over time in the cost of the home.

Councilmember Summers stated that information should be summarized on the real estate listing website and should not only be included in legal documents.

Councilmember Gutowsky stated listing websites could be deceiving, particularly in the case of metro districts. She requested clarification regarding when taxes start to increase in metro districts. Mounce replied there is a ramp up period in some metro districts wherein taxes can increase until build-out occurs.

Mayor Pro Tem Cunniff made a motion, seconded by Councilmember Pignataro, to adopt Resolution 2021-045, as amended to match the version included in Council's read-before packet.

Mayor Pro Tem Cunniff stated his preference would be to not have residential metro districts; however, it seems that is not the direction preferred by the majority of Council. He stated he would support the Resolution with the proposed changes, in particular the pre-application meeting during which Council could outline specific desires. Regarding the review cycle, he stated the item could be included in a 2022 budget offer. He stated the proposed policy offers a significant improvement over the current policy.

Councilmember Potyondy stated she would support the motion and noted Council needs to weigh each future metro district to ensure it is providing extraordinary public benefits.

Councilmember Gorgol stated she still has concerns with metro districts; however, the pre-application meeting is helpful as is the two-year review period. She noted the Transportation

Board had some concerns about transportation and transit not being weighted heavier. She discussed the importance of metro district communities being built for homeowners and not developers.

Councilmember Gutowsky stated it is critical for Council to have the final say on whether metro districts move forward.

Mayor Troxell noted developers develop for customers and too many restrictions could result in the product not existing. He commented on the importance of being respectful of all aspects that make Fort Collins a great place.

RESULT:	RESOLUTION 2021-045 ADOPTED [UNANIMOUS]
MOVER:	Ross Cunniff, District 5
SECONDER:	Julie Pignataro, District 2
AYES:	Pignataro, Gorgol, Potyondy, Gutowsky, Summers, Troxell, Cunniff

30. First Reading of Ordinance No. 064, 2021, Appropriating Prior Year Reserves for the Establishment of a Municipal Immigration Legal Defense Fund. (Withdrawn)

The purpose of this item is to respond to a request from some members of Council for an off-cycle general fund appropriation to create a Municipal Immigration Legal Fund pilot program. If approved, this appropriation would create a pilot grant program to provide access to immigration legal services for Fort Collins residents seeking citizenship or lawful presence. Grant funds will be awarded to legal service providers based on a competitive process and will be dedicated to program administration, education, and outreach; providing defense for people at risk of deportation; children seeking Special Immigrant Juvenile Status; and for community members seeking pathways to citizenship and lawful presence also known as Affirmative Cases. The Council Finance Committee will review this appropriation request at its April 19, 2021 meeting.

RESULT:	WITHDRAWN
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● OTHER BUSINESS

Mayor Pro Tem Cunniff requested and received Council support to direct the City Manager and City Attorney to evaluate possibilities related to 1041 related regulations that would be applicable generally to projects on City-owned land, specifically on current and/or future Poudre River and NISP projects, including further evaluation of the possibility of pausing processes related to those areas until such time as those regulations are developed.

Consideration of a Motion to call a Special Meeting at 6:00 p.m. on Tuesday, April 27:

Mayor Pro Tem Cunniff made a motion, seconded by Councilmember Pignataro, pursuant to Section 2-29(a) of the City Code, that the Council call a special meeting of the Council to take place on Tuesday, April 27, 2021, at 6:00 p.m. to consider the following:

- Organization of new City Council, including swearing in of new Councilmembers and selection of Mayor Pro Tem;
- Resolutions of Appreciation for outgoing Councilmembers; and
- A resolution making an Interim Appointment to the Board of Directors of Platte River Power Authority.

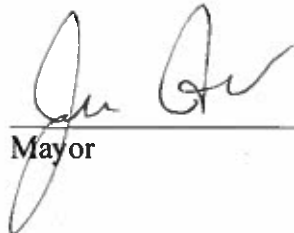
Phil Friedman stated it is fitting to give thanks to existing, outgoing, and incoming Councilmembers. He commended Council and staff.

Kevin (no last name given) thanked Council for its diligent work. He stated Council is a full-time job.

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

● **ADJOURNMENT**

The meeting adjourned at 9:23 PM.



Mayor

ATTEST:



City Clerk

