

May 4, 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, this meeting was conducted using a hybrid approach allowing in-person participation with strict protocols and a variety of remote participation options.)

● **ROLL CALL**

PRESENT: Pignataro, Gorgol, Arndt, Canonico, Peel, Ohlson, Gutowsky
STAFF: Atteberry, Daggett, Coldiron

● **AGENDA REVIEW: CITY MANAGER**

City Manager Atteberry and the interpreter provided interpretation instructions for the meeting.

City Manager Atteberry stated Item No. 17, *Resolution 2021-054 Appointing Directors to Fill Vacancies on the Foothills Metropolitan District Board of Directors*, has been amended and associated staff members' presentation time and discussion times were added to the agenda for Item Nos. 18, *First Reading of Ordinance No. 069, 2021, Amending the Zoning Map of the City of Fort Collins By Changing the Zoning Classification of the Hughes Stadium Annexation Property from the Transition District to Public Open Lands as Required by the Citizen-Initiated Ordinance Passed at the April 6, 2021, Regular Municipal Election*, and 19, *Resolution 2021-055 Directing the City Manager to Investigate and Evaluate the Regulation of Areas and Activities of State Interest Pursuant to Powers Established in State Law Commonly Referred to as 1041 Powers*.

The new video outlining public participation options was played.

● **PUBLIC COMMENT**

Thomas Loran commented on his solar plan for his house being denied due to the 120% rule which states that he cannot produce more than 120% of the power his home consumes over the course of a year. He questioned the rule stating he is attempting to do the right thing for the environment.

Amy Hoeven expressed support for an immigrant legal services fund specifically citing the need to support immigrant students who have grown up in Fort Collins.

Beth Goodwin discussed the importance of raising the minimum wage in Fort Collins and requested Council consider making that a priority.

Paige Noon expressed support for an immigrant legal services fund.

Emily Gallichotte discussed the importance of raising the minimum wage in Fort Collins.

Reanne Townsend discussed the importance of raising the minimum wage in Fort Collins and requested Council adopt that as a priority.

Jackson Lane read a statement on existing in balance with each other and all living things.

Amber Lane continued Mr. Lane's statement.

Kit Baker requested Fort Collins adopt an Indigenous Peoples' Day resolution.

Cristyn Hypnar expressed support for an immigrant legal services fund.

Oliver Volmer expressed support for raising Fort Collins' minimum wage and requested Council adopt it as a priority.

Jorge Maximilian expressed support for an immigrant legal services fund.

Anthony Asuega expressed support for raising Fort Collins' minimum wage and requested Council adopt it as a priority.

Evan Elkins expressed support for raising Fort Collins' minimum wage and requested Council adopt it as a priority.

Montgomery Morris discussed the importance of considering data when looking at raising the minimum wage and requested Council adopt increasing the minimum wage as a priority.

Kate Weimer expressed support for raising Fort Collins' minimum wage and requested Council adopt it as a priority. She also expressed support for the immigrant legal defense fund and urged the City to be proactive in seeking consent from indigenous nations.

Anders Fremstad expressed support for raising Fort Collins' minimum wage and requested Council adopt it as a priority.

Shaleen Morales, Rocky Mountain Immigrant Advocacy Network, expressed support for an immigrant legal services fund.

Claudia Perez, La Cocina, expressed support for an immigrant legal services fund.

Coleson Breen expressed support for raising Fort Collins' minimum wage and requested Council adopt it as a priority.

Sarah Rossiter requested Council enact a temporary moratorium on accepting new site plan advisory review applications, place a hold on any applications currently utilizing the process, include the process on the agenda for Council's upcoming retreat, establish a committee to lead an in-depth examination of the requirements, legalities, parameters, and ramifications of the process, include direct citizen involvement throughout the review of the process, and update the Land Use Code according to committee findings.

Patricia Miller expressed support for an immigrant legal services fund.

Dr. Elizabeth Keeney expressed support for an immigrant legal services fund.

Silvia Soler Gallego expressed support for an immigrant legal services fund.

Alyssa Esposito expressed support for an immigrant legal defense fund.

Sam Kilmeyer expressed support for raising Fort Collins' minimum wage and expressed support for an immigrant legal defense fund.

Gaurav Harshe expressed support for an immigrant legal services fund.

Ingrid Justin expressed support for an immigrant legal services fund.

Jan Iron expressed support for an Indigenous Peoples' Day resolution.

Kaori Keyser expressed support for raising Fort Collins' minimum wage and requested Council adopt it as a priority.

Yenny expressed support for an immigrant legal defense fund.

Jenny expressed support for an immigrant legal defense fund.

Cheryl Glanz stated she would like a future opportunity to engage Council as a representative of the community of American Historical Society of Germans from Russia.

Jared Hill expressed support for raising Fort Collins' minimum wage.

Sarah Grace Hafen expressed support for an immigrant legal services fund.

Tom Henry Regan expressed support for raising Fort Collins' minimum wage and requested Council adopt it as a priority.

Christian Dykson expressed support for an immigrant legal services fund and commented on a possible partnership with CSU.

Chayne Wilde expressed support for raising Fort Collins' minimum wage and requested Council adopt it as a priority.

Adriana Quintero spoke in support for an immigrant legal services fund.

Kevin Caffrey expressed support for raising Fort Collins' minimum wage.

Debbie (no last name given) expressed support for an immigrant legal services fund.

● **PUBLIC COMMENT FOLLOW-UP**

Mayor Pro Tem Gorgol noted the immigrant legal services fund will be discussed at next week's Council work session. She also noted the Council retreat is this weekend and Council will consider the comments regarding minimum wage. She stated she would be happy to bring up consideration of an Indigenous Peoples' Day resolution under Other Business.

Councilmember Ohlson agreed with the Indigenous Peoples' Day resolution or proclamation and requested staff connect with the Germans from Russia group. Regarding Mr. Loran's comments, he requested a memo from staff regarding why the 120% policy is in place and if it is time to amend that policy. He requested Jackson send him a copy of his comments.

Councilmember Gutowsky thanked Ms. Glanz for her comments and stated she would like to learn more about the Germans from Russia.

Councilmember Pignataro requested the memo staff previously wrote regarding minimum wage be redistributed to this Council.

Councilmember Peel commented on a conversation she had with Ms. Miller and stated she would like to get staff input regarding exactly what undocumented immigrants are entitled to under the law.

Councilmember Canonico also stated she would like additional input regarding the 120% policy.

Mayor Arndt thanked the speakers.

● **CONSENT CALENDAR**

Rich Stave withdrew Item Nos. 12, *Second Reading of Ordinance No. 063, 2021, Authorizing the Sale of an 11.4-acre Parcel of Vacant Land Located at Meadow Springs Ranch*, and 17, *Resolution 2021-054 Appointing Directors to Fill Vacancies on the Foothills Metropolitan District Board of Directors*, from the Consent Agenda.

Amber Lane requested any item that has an impact on the land, air, water, and wildlife that has not received prior informed consent by tribal nations be removed and separately discussed. City Manager Atteberry replied he is not aware of any item that has received prior informed consent.

City Attorney Daggett requested the speaker evaluate the items that are of concern. Amber replied she has not read through the entire agenda and would defer to Council on selecting those items.

City Attorney Daggett outlined Council meeting rules and stated it would be unprecedented to withdraw all Consent items because of a general concern that is not focused on particular items.

Amber discussed the Declaration of Rights of Indigenous Peoples stating it obligates all governments to examine how they will evolve systems that recognize and embrace minimum standards including prior informed consent on issues that impact indigenous peoples directly.

City Manager Atteberry suggested staff could examine the issue further and determine the best way to proceed. He reiterated his recommendation to approve items on the Consent Agenda.

Councilmember Pignataro suggested the general comment time may be a good opportunity to discuss any items with which Amber is concerned and encouraged her to work with staff regarding how to address this issue moving forward.

Mayor Arndt asked Amber if she would be amenable to allowing staff to review processes and the referenced document. Amber replied in the affirmative.

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

RESULT:	CONSENT AGENDA ADOPTED [UNANIMOUS]
MOVER:	Emily Gorgol, District 6
SECONDER:	Tricia Canonico, District 3
AYES:	Pignataro, Gorgol, Arndt, Canonico, Peel, Ohlson, Gutowsky

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

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

2. **Second 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)**

This Ordinance, unanimously adopted on First Reading on April 20, 2021, appropriates 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.

3. **Second 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)**

This Ordinance, unanimously adopted on First Reading on April 20, 2021, appropriates \$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.

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

This Ordinance, unanimously adopted on First Reading on April 20, 2021, appropriates \$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.

5. **Second 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)**

This Ordinance, unanimously adopted on First Reading on April 20, 2021, transfers \$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.

6. **Second 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)**

This Ordinance, unanimously adopted on First Reading on April 20, 2021, appropriates 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.

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

This Ordinance, unanimously adopted on First Reading on April 20, 2021, appropriates \$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.

8. **Second 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)**

This Ordinance, unanimously adopted on First Reading on April 20, 2021, appropriates \$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.

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

This Ordinance, unanimously adopted on First Reading on April 20, 2021, adopts 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.

10. **Second 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)**

This Ordinance, unanimously adopted on First Reading on April 20, 2021, extends 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.

11. **Second 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 Ordinance, unanimously adopted on First Reading on April 20, 2021, considers 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.

12. **First Reading of Ordinance No. 065, 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 Recreation Fund to Support Childcare Needs Due to the COVID-19 Pandemic. (Adopted)**

The purpose of this item is to accept and appropriate a \$32,800 Child Care Relief Grant awarded by the State of Colorado into the Recreation Department's 2021 budget. The grant funds will help offset the Recreation Department's financial impacts resulting from the COVID-19 pandemic.

13. **Items Relating to the State Highway 1 / Douglas Road Intersection Improvement Project. (Adopted)**

- A. Resolution 2021-051 Authorizing Execution of the First Amendment to the Intergovernmental Agreement Between the City of Fort Collins and Larimer County for the State Highway 1/Douglas Road Signal Project.
- B. First Reading of Ordinance No. 066, 2021, Making a Supplemental Appropriation for the State Highway 1/Douglas Road Intersection Improvements Project.

The purpose of this item is to enable the City to receive and expend reimbursement funds from Larimer County for constructing intersection improvements associated with the State Highway 1/Douglas Road Intersection Improvements Project. This item will authorize the Mayor to execute the First Amendment to the Intergovernmental Agreement for the State Highway 1/Douglas Road Signal Project dated May 7, 2019 (IGA) with Larimer County. This item will also appropriate \$437,376 (to be reimbursed by the County under the IGA) in the Capital Projects Fund for the project. These funds will be used for the construction of a traffic signal and related intersection improvements at the State Highway 1 and Douglas Road intersection.

14. **Items Relating to the Gil Boyer Annexation. (Adopted)**

- A. Resolution 2021-052 Setting Forth Findings of Fact and Determinations Regarding the Gil Boyer Annexation.
- B. Public Hearing and First Reading of Ordinance No. 067, 2021, Annexing the Property Known as the Gil Boyer Annexation to the City of Fort Collins, Colorado.

The purpose of this item is to annex a 9,800 square foot residential parcel located in northwest Fort Collins. The Initiating Resolution was adopted on consent, March 16, 2021. The property abuts North Taft Hill Road to the east and is situated 450 feet northwest of the intersection of Laporte Avenue and North Taft Hill Road. The annexation area consists of a single-family home and several accessory buildings.

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.

15. **Public Hearing and First Reading of Ordinance No. 068, 2021, Amending the Zoning Map of the City of Fort Collins and Classifying for Zoning Purposes the Property Included in the Gil Boyer Annexation to the City of Fort Collins, Colorado, and Approving Corresponding Changes to the Residential Neighborhood Sign District Map and Lighting Context Area Map. (Adopted)**

This item is a quasi-judicial matter and if it 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 2015-091.

The purpose of this item is to zone the property included in the Gil Boyer Annexation into the Low Density Mixed-Use Neighborhood (L-M-N) zone district, Neighborhood Sign District, and LC1 Lighting Context Area.

● **COUNCILMEMBER REPORTS**

Mayor Pro Tem Gorgol reported the Community Impact Committee recently finished its work looking at creating a safe and healthy community for all. She stated a report and funding recommendations will be coming forward in the next few weeks and stated interviews are currently taking place for the newly formed position of Equity Officer. She also commented on the event honoring the outgoing Councilmembers.

Councilmember Gutowsky thanked Ginny Sawyer for her leadership on the Community Impact Committee.

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

● **DISCUSSION ITEMS**

16. **First Reading of Ordinance No. 069, 2021, Amending the Zoning Map of the City of Fort Collins By Changing the Zoning Classification of the Hughes Stadium Annexation Property from the Transition District to Public Open Lands as Required by the Citizen-Initiated Ordinance Passed at the April 6, 2021, Regular Municipal Election. (Adopted on First Reading)**

On April 6, 2021, Fort Collins' voters passed the citizen-initiated ordinance requiring, among other things, that the City rezone the approximately 164.56-acre property that was subject to the Hughes Stadium Annexation from its current Transition District zoning to the Public Open Lands District. The rezoning ordinance is presented for Council adoption on First Reading.

City Attorney Daggett introduced Assistant City Attorney Brad Yatabe.

Yatabe stated this item is the First Reading of the ordinance that would rezone the Hughes Stadium property from Transition District to Public Open Lands District as required by the citizen-initiated ordinance adopted at the April municipal election. He discussed the history of the issue.

Patricia Babbit stated she was pleased the citizen-initiated ordinance passed with such a large margin and requested Council help the citizens maintain the property as open space. She questioned why the property was annexed if CSU is essentially able to do whatever it desires.

Mary Alice Grant commended the result of the vote and requested Council give credence to the wishes of the people.

Tamara Meurer agreed with Ms. Grant and stated it seems City staff has been working with CSU to develop a myriad of reasons why negotiating the purchase of the property should not occur. She stated there has been a lack of transparency in the City/CSU discussions. She requested Council adopt the ordinance and place at least one citizen on the task force created to examine the purchase of the property.

Amber Lane asked if there has been consultation with tribal nations at any point during this process. She read a statement from another individual requesting Council choose to keep the property available to the community that built the city.

Phil Friedman commented on filing an affidavit in the lawsuit and stated the City needs to follow the will of the judge and the people.

Adam Eggleston stated he believes the property will ultimately be developed per the rights of CSU and the state. He requested the City work closely with CSU to minimize infrastructure costs.

Martha Zook reminded Council of the number of signatures collected to get the citizen referendum on the ballot and noted the result was that voters overwhelmingly voted to keep the property as open space.

Sarah Rossiter thanked the speakers who referenced tribal nations as those comments are relevant to keeping the property as open space. She supported adoption of the ordinance on First Reading and commented on the importance of democracy and the true power of government lying with the will of the people.

Rory Heath stated this is a referendum on the will of the people and on representation. He stated anything less than a unanimous vote adopting the ordinance would be going against the will of the people.

Renae Walkup stated most voters want the property to remain as open space. She noted the property is at the end of Overland Trail and evacuation routes for the land, if it were to be developed, would be extremely limited.

Benton Roesler stated CSU's student government stands by the land acknowledgement and the importance of ensuring the word of the indigenous people. He commented on the importance of setting the precedent for democracy.

Rich Stave agreed with most of the previous comments and questioned who would preside over development should CSU opt to not sell the property.

Councilmember Peel commended the citizens for the efforts at collecting signatures and agreed that while the 70% vote to maintain the property as open space is impressive, it still represents only a fraction of the Fort Collins population. She expressed concern over the precedent of

allowing citizens and government to dictate the use of private property and expressed concern about the cost of making the property acceptable open space. However, she acknowledged Council is obligated to vote as instructed per the ordinance.

Mayor Pro Tem Gorgol made a motion, seconded by Councilmember Gutowsky, to adopt Ordinance No. 069, 2021, on First Reading.

RESULT:	ORDINANCE NO. 069, 2021 ADOPTED ON FIRST READING [UNANIMOUS]
MOVER:	Emily Gorgol, District 6
SECONDER:	Susan Gutowsky, District 1
AYES:	Pignataro, Gorgol, Arndt, Canonico, Peel, Ohlson, Gutowsky

17. **Resolution 2021-055 Directing the City Manager to Investigate and Evaluate the Regulation of Areas and Activities of State Interest Pursuant to Powers Established in State Law Commonly Referred to as 1041 Powers. (Adopted)**

The purpose of this item is to consider a resolution that directs staff to develop a feasibility evaluation and proposal to implement 1041 regulations for areas and activities of state interest. This item is being brought to Council because a councilmember requested more details on 1041 authority during the April 20, 2021 Council meeting. If Council adopts the Resolution, staff will investigate and evaluate ways in which 1041 powers and 1041 regulations may better allow the City to achieve its policy and regulatory goals and return to Council to report and discuss its findings.

Paul Sizemore, Interim Community Development and Neighborhood Services Director, stated this item is the result of a request from Council. He outlined the site plan advisory review (SPAR) process that the City currently uses to evaluate public projects that are built within city limits. He noted SPAR is advisory in nature and the agency that proposes the project can override any recommendation by a 2/3 vote of its governing board. Sizemore stated this resolution would direct staff to evaluate the feasibility of what would be involved in developing a new set of regulations under the Areas and Activities of State Interests Act, or 1041 regulations. He stated the evaluation would look at whether 1041 would allow the City to achieve its policy and regulatory goals better than the current system of just using SPAR to review public projects.

Sizemore noted 1041 regulations allow local governments to regulate areas and activities of state interest as opposed to just providing an advisory determination. The regulations allow local governments to have more control over public projects, even if the project has a statewide impact. To exercise the powers, the City must identify areas or activities it wants to regulate using 1041 rules, then adopt guidelines according to state statutes. Sizemore provided additional details on the use of 1041 regulations and noted the City would eventually need to apply the rules to any public project that falls into the designated area or activity.

Sizemore outlined next steps in the process should Council adopt this resolution which would direct staff to begin working on an investigation and evaluation of whether 1041 regulations would help the City to better achieve policy goals.

Adam Eggleston stated he would like staff to examine the protracted costs to citizens that would come with delaying projects because of using 1041 regulations.

Amber Lane stated the prior informed consent she mentioned earlier establishes a bottom-up participation and consultation with indigenous populations prior to the beginning of development on ancestral lands or using resources within the territory of an indigenous population. She also

stated indigenous groups have the right to ask developers, at the developers cost, to do an environmental impact study that is aligned with indigenous values.

Karen Carpenter, Save Rural NoCo, requested Council adopt this resolution with the addition of a moratorium on processing any SPAR applications until robust 1041 regulations have been adopted.

Rich Stave questioned the cost of and uses for this tool.

Karen Wagner, No Pipe Dream, stated it is encouraging that one of this Council's first actions is the consideration of 1041 regulations, which most major cities in the state have adopted. She stated the SPAR process eliminates public oversight and citizen involvement and requested Council put all SPAR processes on hold until 1041 regulations have been adopted.

Phil Friedman stated the recent NISP SPAR process was inadequate, unprofessionally carried out, opaque, and rushed. He stated a 1041 process is much more appropriate than SPAR and encouraged Council to adopt this resolution and put all SPAR processes, except those that are obviously functional, on hold.

Tamara Meurer echoed Mr. Friedman's comments and stated SPAR is a way to circumvent protections of city growth. She supported examining adoption of 1041 regulations and encouraged Council to put SPAR processes on hold.

Eric Sutherland stated it is absurd for the City Attorney to advise Council that it must subject itself to the statutes regarding other subdivisions of state government developing within the municipal corporation's boundaries. He stated the SPAR process is in statute for statutory cities and it has no place in a home rule city such as Fort Collins.

Gary Wockner, Save the Poudre, commented on the beauty of the Poudre River and stated NISP would drain and destroy the river. He opposed the use of the SPAR process in evaluating NISP and supported moving forward with a study of 1041 regulations. He requested all SPAR applications be placed on hold pending the outcome of the 1041 study.

Sarah Rossiter expressed support for the resolution and for putting a moratorium on current and upcoming SPAR applications pending the outcome of the 1041 study.

Councilmember Pignataro asked about the anticipated timeline for activities related to the 1041 study. Sizemore replied staff would be doing deeper research into what other jurisdictions are doing in terms of 1041 regulations, mapping out what would be involved in creating a process for the City, looking at different areas and activities of state interest, and metering out the pros and cons of choosing certain designations over other ones. He stated staff would also be examining workload and resources that would need to be contributed to fully implementing this project and how that would affect other Council priorities.

Councilmember Pignataro asked if there would be a way to request an update once some of the milestones have occurred. City Manager Atteberry replied he would be happy to do that.

Councilmember Ohlson stated this could be an important tool; however, he expressed concern staff is acting as if this is trailblazing when there are many other municipalities that have adopted the regulations. He stated it is a common tool and he requested staff be given the resources to move this along as quickly as possible.

Councilmember Gutowsky asked how many SPAR applications the City receives annually. Sizemore replied not more than ten.

Councilmember Gutowsky asked how long it takes for a SPAR application to reach completion. Sizemore replied there are specific rules per state statute indicating a hearing before the Planning and Zoning Board must occur within 60 days of submittal.

Councilmember Gutowsky asked if 1041 regulations, should they be adopted, could be applied to SPAR applications that are in progress. Sizemore replied the authority for SPAR regulations is in an entirely different place in the statutes than the authority for 1041 regulations and the two are not mutually exclusive. City Attorney Daggett concurred with Sizemore's explanation noting there is room for both processes to apply. She stated how regulations are structured and what would trigger the requirements under 1041 would be part of the mechanics of how the two separate requirements would apply in tandem. She also stated staff is aware of other jurisdictions that have consciously structured 1041 regulations to ensure they were not allowing projects to move forward while the regulations were in the process of being developed.

Councilmember Gutowsky asked if staff could foresee any unintended consequences resulting from establishing a moratorium on SPAR applications. City Attorney Daggett replied staff has considered the statutory provisions to be mandatory on the City and those provisions which underly the SPAR process require a 60-day review and provide that if the City has not acted by the end of that period, that the project is deemed approved. Therefore, conceivably, a moratorium could lead to SPAR projects being deemed approved. She stated it is likely most SPAR projects would not fall within the scope of 1041 regulations; however, because that scope has yet to be completed, staff is not able to evaluate where there would be overlap between the two.

City Manager Atteberry stated the Larimer County Alternative Sentencing Facility on the jail campus is in the queue to be considered as a SPAR and any new schools would also be SPAR projects. He requested staff address Councilmember Ohlson's comment asking that this process be more expeditious. Sizemore replied the anticipated timeline to scope what would be involved is going to require a couple weeks to a month to answer some unanswered questions; however, he stated things could be done in a streamlined fashion as there is a time sensitivity. City Attorney Daggett noted there may be some opportunities to do things like look at portions of the Poudre River corridor, or other things that would be more tailored to local priorities and conditions. She stated that because there is room for the City to define what it wants to prioritize in this process, it would likely be of some value to spend some time thoughtfully considering options and which would be best to start with.

Mayor Arndt noted the SPAR process is advisory at best and the entity can override the recommendations with a 2/3 vote of its governing body. Sizemore confirmed that information and noted a SPAR process looks at the location, character, and extent of a proposal and the Planning and Zoning Board issues an advisory position on the proposal. He stated 1041 regulations would give the jurisdictions land use authority over an application.

Councilmember Ohlson stated he would like staff to address Mr. Sutherland's comment that SPAR does not apply to home rule cities in a future memo.

Mayor Pro Tem Gorgol made a motion, seconded by Councilmember Pignataro, to adopt Resolution 2021-055.

RESULT:	RESOLUTION 2021-055 ADOPTED [UNANIMOUS]
MOVER:	Emily Gorgol, District 6
SECONDER:	Julie Pignataro, District 2
AYES:	Pignataro, Gorgol, Arndt, Canonico, Peel, Ohlson, Gutowsky

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

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

This Ordinance, unanimously adopted on First Reading on April 20, 2021, sells 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.

Rich Stave questioned the Weld County records regarding this property and questioned the transfer costs and value of the property. He also stated the property includes a frontage road with year-round access which would normally raise the valuation. He questioned whether there is an easement for the transmission line on the property and if so, whether that was included in the sale. He also questioned whether there is a development agreement for the property.

Keith Hansen, Real Estate Services Manager, explained the usual open-market process for selling City-owned property. He stated the City owns about 26,000 acres known as Meadow Springs Ranch that is used for biosolids application, and an 11.4-acre piece is severed from the rest of that acreage by I-25 and there is no intention of any future use for the parcel. The buyer owns all the land around this parcel and there is no legal access to it. He stated deeding it to the buyer will move the lot line adjustment making the Meadow Springs Ranch boundary I-25. He stated the sales price is based on other sales in the area on a per-acre basis.

Mr. Stave commented on the location of the frontage road and stated it appears it provides public access. Hansen replied the title company's research has shown no legal or physical public access to the parcel.

Councilmember Pignataro stated there may not be a detriment in postponing consideration of this item as only three Councilmembers saw the item on First Reading.

Mayor Arndt and Councilmember Canonico stated they feel prepared to vote.

Councilmember Ohlson suggested staff be prepared to provide maps and other materials when Second Reading items are pulled in the future.

Mayor Pro Tem Gorgol made a motion, seconded by, Councilmember Gutowsky, to adopt Ordinance No. 063, 2021, on Second Reading.

RESULT:	ORDINANCE NO. 063, 2021 ADOPTED ON SECOND READING [UNANIMOUS]
MOVER:	Emily Gorgol, District 6
SECONDER:	Susan Gutowsky, District 1
AYES:	Pignataro, Gorgol, Arndt, Canonico, Peel, Ohlson, Gutowsky

19. **Resolution 2021-054 Appointing Directors to Fill Vacancies on the Foothills Metropolitan District Board of Directors. (Adopted)**

The purpose of this item is to appoint three directors to the Foothills Metropolitan District Board of Directors (Board). In December 2020, the Foothills Mall, owned by Walton Foothills Holding VI LLC (Walton), went into foreclosure and a receiver was appointed by the courts to control the property during the pendency of the foreclosure (Receiver). As a result, two representatives of the Receiver became directors on the Board. In late 2020, Walton mistakenly transferred a parcel of real property to the Foothills Metropolitan District (District), in which property these two directors, as well as the Board's other director, had a contractual interest. It was these directors' contractual interests in the property that qualified them to serve on the District's Board. The effect of this conveyance was to disqualify these three directors from serving on the Board resulting in a vacant Board. To remedy this, the property has been reconveyed to Walton, and the District is asking Council to adopt this Resolution to appoint these three past directors to serve again on the Board.

State law authorizes Council to make these appointments when a metropolitan district's board of directors becomes vacant in a situation like this, but it also requires the newly appointed Board to call within six months of its appointment for the nomination of new directors and to hold a special election for these offices. Without these temporary appointments, the District will be hindered from providing its services to the residents and businesses in the District. These appointments are also needed because Walton currently has a contract with McWhinney Enterprises (McWhinney) to sell the Foothills Mall to McWhinney and this sale cannot be completed until the District's Board is fully operational.

Rich Stave pulled this item as it is not clear why the City is involved in this legal maneuvering. He stated it seems this is related to the failure of a metro district in the city and asked about the monetary liability to the City with respect to this action. He commented on the Larimer County Assessor's records indicating the metro district only consists of parking lots.

Clay Frickey, Redevelopment Program Manager, stated the City is involved in this item because the property owner ended up inadvertently transferring a piece of property that essentially vacated the board for the metro district as part of the receivership process for Foothills Mall and the metro district needs to take action to advance the sale of the Foothills Mall property to McWhinney. He noted state statute allows Council to appoint a board of directors to a metro district in the event this type of inadvertent vacation occurs. Frickey stated there is no financial liability to the City.

Deputy City Attorney John Duval noted the property owned by the metro district is parking lots and the parking structure; however, the entire Foothills Mall property is in the metro district. He noted the appointed board can only last for approximately six months prior to a special election occurring.

Rich Stave stated this brings up some concerns in the way metro districts handle their internal workings.

Kristin Bear, White, Bear, Ankele, Waldron and Tanaka, stated her firm currently serves as general counsel to the metro district. She noted the district itself is not in failure and its bonds are being paid. She stated this was a clerical error and the proposed director candidates are qualified. She stated this is the appropriate remedy under the state statute.

Mayor Pro Tem Gorgol made a motion, seconded by Councilmember Canonico, to adopt Resolution 2021-054.

RESULT:	RESOLUTION 2021-054 ADOPTED [UNANIMOUS]
MOVER:	Emily Gorgol, District 6
SECONDER:	Tricia Canonico, District 3
AYES:	Pignataro, Gorgol, Arndt, Canonico, Peel, Ohlson, Gutowsky

● **OTHER BUSINESS**

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

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

Mayor Pro Tem Gorgol requested and received support for the creation of an Indigenous Peoples' Day resolution. She asked staff to follow up with the speakers.

B. Consider a motion to adjourn into an executive session to discuss legal issues related to Hughes Stadium annexation property and real property acquisition.

Mayor Pro Tem Gorgol made a motion, seconded by Councilmember Pignataro, that the City Council go into executive session for the purpose of discussing with the City's attorneys and appropriate management staff:

- specific legal questions related to potential litigation regarding the citizen initiative requiring acquisition of the Hughes Stadium property and the manner in which the particular policies, practices or regulations of the City related to that initiative and acquisition may be affected by existing or proposed provisions of federal, state or local law, pursuant to:
 - City Charter Article Roman Numeral Two, Section 11(2),
 - City Code Section 2-31(a)(2) and
 - Colorado Revised Statutes Section 24-6-402(4)(b); AND
- real property acquisition and disposition related to the Hughes Stadium property, pursuant to:
 - City Charter Article Roman Numeral Two, Section 11(3),
 - City Code Section 2-31(a)(3) and
 - Colorado Revised Statutes Section 24-6-402(4)(a).


Tamara Meurer stated it seems this is another potential circumnavigation of the voice of the people.

Councilmember Pignataro requested clarification on whether PATHS originally worked with the Attorney's Office on the initiative language and whether it was different when it was submitted with the garnered signatures. City Attorney Daggett replied there were conversations around the concept of an initiative that would require rezoning of the property; however, there was a question regarding the aspect of the initiative that required the City to acquire the property and the provisions that addressed funding and financing of the purchase. She stated the City asked the District Court to provide a declaratory judgement on those aspects and the Court did partially modify that language. She clarified the petition representatives were named in the case.

RESULT:	MOTION ADOPTED [UNANIMOUS]
MOVER:	Emily Gorgol, District 6
SECONDER:	Julie Pignataro, District 2
AYES:	Pignataro, Gorgol, Arndt, Canonico, Peel, Ohlson, Gutowsky

● **ADJOURNMENT**

The meeting adjourned at 11:08 PM.



Mayor

ATTEST:



City Clerk

