

June 15, 2021

COUNCIL OF THE CITY OF FORT COLLINS, COLORADO

Council-Manager Form of Government

Regular Meeting – 6:00 PM

● **ROLL CALL**

PRESENT: Pignataro, Gorgol, Arndt, Canonico, Peel, Ohlson, Gutowsky
STAFF: Atteberry, Daggett, Gula-Yeast

● **AGENDA REVIEW: CITY MANAGER**

City Manager Atteberry outlined Spanish interpretation options for the meeting.

Mayor Arndt discussed the meeting regulations related to COVID.

City Manager Atteberry stated Item No. 8, *First Reading of Ordinance No. 083, 2021, Authorizing the Conveyance of a Wastewater Easement on Larimer County Landfill Property to Larimer County*, has been amended to correct the location map.

The video providing public participation options was played.

● **PUBLIC COMMENT**

Eric Sutherland requested Council consider how the City is going to pay bonds by raising electric utility rates to pay for Connexion. He suggested a citizen advisory board should be put in place to provide direction to Council.

Anthony Asuega discussed the importance of raising the minimum wage in Fort Collins and urged Council to adopt that as a priority.

Charlie Mesulian expressed concern about the funds raised in Mayor Arndt's election.

Kristy Wygmans, Pour Brothers, spoke on behalf of eight restaurants on Linden Street and discussed the importance of ensuring those restaurants to remain viable during the construction of the Linden Street project.

Dave Wygmans, Pour Brothers, discussed the importance of ensuring Linden Street restaurants remain viable during the construction of the Linden Street project. He requested the restaurants be allowed to have outdoor dining in the extended sidewalks that are part of the project.

Gary Wockner, Save the Poudre, discussed the recently filed lawsuit against the City regarding its use of the site plan advisory review (SPAR) process for the Northern Integrated Supply Project (NISP). He stated NISP has no jurisdiction in the city and cannot do anything in the city without permission of Council. He stated the use of the SPAR process violates the Land Use Code and the Natural Areas Department's easement policy.

Emily Gallishote discussed the importance of raising the minimum wage in Fort Collins and encouraged Council to adopt it as a priority.

● **PUBLIC COMMENT FOLLOW-UP**

Mayor Pro Tem Gorgol requested staff address the concerns mentioned regarding the Linden Street project during the presentation.

● **CONSENT CALENDAR**

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

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

1. **Consideration and Approval of the Minutes of the May 18, 2021 Regular meeting and the May 25, 2021 Adjourned meeting. (Adopted)**

The purpose of this item is to approve the minutes of the May 18, 2021 Regular meeting and the May 25, 2021 Adjourned meeting.

2. **Second Reading of Ordinance No. 074, 2021, Authorizing the City Manager to Accept a Grant Award and Comply with the Terms of the Grant and Appropriating Unanticipated Black and Grey Market Marijuana Enforcement Program Grant Revenue in the General Fund for Police Services. (Adopted)**

This Ordinance, unanimously adopted on First Reading on June 1, 2021, appropriates unanticipated grant revenue in the amount of \$41,564 from the Colorado Department of Local Affairs in the General Fund to support investigation and prosecution of black-market marijuana activity.

3. **Second Reading of Ordinance No. 078, 2021, Approving Emergency Rule and Regulation No. 2021-01 Permitting Utility Billing Payment Plans for Past Due Amounts on Terms Other Than Those Set Forth in the Fort Collins Municipal Code and Enacted by the City Manager Pursuant to the Local COVID-19 Emergency. (Adopted)**

This Ordinance, unanimously adopted on First Reading on June 1, 2021, adopts Emergency Rule and Regulation No. 2021-01 enacted by the City Manager in response to resuming normal utility business operations after the COVID-19 pandemic. Emergency Rule and Regulation No. 2021-01 suspends the "full-payment" of outstanding balances requirement of City Code Section 26-713(e) and will allow customers to enter a payment plan to have utility services restored immediately upon payment of a portion of their outstanding balances. The Ordinance also expressly suspends that Code Section.

Section 2-671(a)(6)(a) of the City Code provides that emergency rules and regulations must be confirmed at the earliest practical time by the Council. This Ordinance seeks Council's approval and ratification of Emergency Rule and Regulation No. 2021-01. By enacting this Ordinance ratifying Regulation No. 2021-01, the City's Utility billing will begin a transition back to normal business practices, as defined by Section 26-713(e) of the Municipal Code which requires that any outstanding balance be paid in full before utility services are restored.

4. **First Reading of Ordinance No. 079, 2021, Making Supplemental Appropriations of a Portion of the City's American Rescue Plan Act Funding for Local Fiscal Recovery Related to Response to and Recovery From the COVID-19 Pandemic. (Adopted)**

The purpose of this item is to appropriate \$4,217,846 (equivalent to fifteen percent) of the funds the City will receive from the American Rescue Plan Act's Coronavirus State and Local Fiscal Recovery Fund ("ARPA"). The appropriated amount will be used to address immediate and short-term needs in response to the COVID-19 public health emergency and its negative impact to our community's health, social wellbeing and economy.

5. **First Reading of Ordinance No. 080, 2021, Making Supplemental Appropriations for the Restorative Justice Services Program. (Adopted)**

The purpose of this item is to appropriate grant revenue to fund Restorative Justice Services within Community Development and Neighborhood Services. The City has received a grant in the amount of \$67,612 from the Colorado Division of Criminal Justice Juvenile Division fund for the continued operation of Restorative Justice Services, which includes the RESTORE program for shoplifting offenses, the Restorative Justice Conferencing Program (RJCP), and Reflect Program for all other offenses. No match is required. The grant period is July 1, 2021, to June 30, 2022.

6. **First Reading of Ordinance No. 081, 2021, Amending Section 2-34 of the Code of the City of Fort Collins to Designate the City's Website as the Proper Place for Posting of City Council Meeting Notices and Agendas. (Adopted)**

The purpose of this item is to amend City Code to designate the proper place for the posting of all public notices and agenda materials related to Council meetings and committees as the City's website at fcgov.com.

7. **First Reading of Ordinance No. 082, 2021, Amending Chapter 12 of the Code of the City of Fort Collins Regarding Smoking Materials. (Adopted)**

The purpose of this item is to amend Chapter 12 of the City Code to reflect adopted State of Colorado House Bill (HB) actions which equate "vaping" with "smoking" and change age restrictions on selling smokable products from 18 years old to 21. It would also add a local definition of "smoking material" to clearly define what products cannot be sold to persons under 21 years of age for purposes of smoking or vaping.

8. **First Reading of Ordinance No. 083, 2021, Authorizing the Conveyance of a Wastewater Easement on Larimer County Landfill Property to Larimer County. (Adopted)**

The purpose of this item is to convey a wastewater easement to Larimer County on the Larimer County Landfill property, which is co-owned by Larimer County (25%); the City of Loveland (25%); and the City of Fort Collins (50%). The easement is necessary for the construction of the future Larimer County Behavioral Health Facility on County-owned property directly to the south of the landfill. Approval by all three municipalities is required for the conveyance of the easement, because all three have an ownership interest in the property.

9. **First Reading of Ordinance No. 084, 2021, Amending Chapter 24 of the Code of the City of Fort Collins to Adopt the Updated 2021 Larimer County Urban Area Street Standards by Reference. (Adopted)**

The purpose of this item is to adopt an updated 2021 version of the Larimer County Urban Area Street Standards (2021 LCUASS). These updates occur on a periodic basis. LCUASS guides the design of both private developments and public engineering capital projects within the City and in the growth management areas of the Cities of Fort Collins and Loveland. The LCUASS are also referenced and used as part of other local jurisdictions road standards. LCUASS was originally adopted on January 2, 2001, by Ordinance No. 186, 2000.

10. **Resolution 2021-068 Authorizing the Execution of the First Amendment to Intergovernmental Agreement Regarding the Renovation and Redevelopment of Tenney Court North Alley and West Oak Street Alley. (Adopted)**

The purpose of this item is to request Council approval for the first amendment to an existing Intergovernmental Agreement (IGA) between the City of Fort Collins and the Downtown Development Authority (DDA) for renovation and redevelopment of Tenney Court North and West Oak Street Alleys. The Amendment will authorize the DDA to install Alley Enhancements on City-owned property located

at 144 North Mason Street, which contains the Civic Center Parking Structure and abuts Tenney Court North Alley.

11. **Resolution 2021-069 Authorizing the Execution of a Funding Agreement Between the City and Housing Catalyst for a Loan of Funds from the Affordable Housing Capital Fund for the Oak 140 Development. (Adopted)**

The purpose of this item is to consider a Resolution authorizing the execution of a funding agreement between the City of Fort Collins and Fort Collins Housing Authority (Housing Catalyst) for a \$610,000 loan of funds from the Affordable Housing Capital Fund for the construction of the Oak 140 development project.

12. **Resolution 2021-070 Authorizing the Execution of an Intergovernmental Agreement between the City of Fort Collins, Colorado, and the Colorado Department of Transportation for a Multi-Modal Option Program Grant to Fund the Purchase of Three Compressed Natural Gas Buses. (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 \$908,091 in grant funds through the Statewide Competitive Pool of the MMOF (Multi-Modal Option Program Funds) for fiscal year (FY) 2021. The MMOF grant funds will be used in part as a local match for a FY 21 Congestion Mitigation and Air Quality (CMAQ) grant of \$950,000 that Transfort was awarded in 2016. Both the MMOF and CMAQ grants were appropriated through the 2021 BFO cycle and are accounted for in the approved 2021 Transfort budget. Collectively, the two grants will fund acquisition of three Compressed Natural Gas (CNG) Buses, including local match as required.

13. **Resolution 2021-075 Making Findings of Fact and Conclusions of Law Regarding the Appeal of the Planning and Zoning Commission Decision Approving the Guardian Self-Storage Project Development Plan PDP190020. (Adopted)**

[Secretary's Note: This Resolution was originally adopted as Resolution 2021-071 and changed after adoption to correct a duplication in numbering.]

The purpose of this item is to make findings of fact and conclusions regarding the appeal of the Planning and Zoning Commission decision to approve the Guardian Self-Storage Project Development Plan. The appeal was heard by Council on June 1, 2021.

- **CONSENT CALENDAR FOLLOW-UP**

Councilmember Ohlson requested staff ensure recycling and food waste collection, not solely trash collection, are part of the alley projects approved per Item No. 10, *Resolution 2021-068 Authorizing the Execution of the First Amendment to Intergovernmental Agreement Regarding the Renovation and Redevelopment of Tenney Court North Alley and West Oak Street Alley.*

- **STAFF REPORTS**

- A. **Staff Report: Linden Street Project Update** (staff: Kyle Lambrecht, Brad Buckman)

Brad Buckman, Interim City Engineer, stated the Linden Street renovation project has been a collaborative effort between the City, Downtown Development Authority (DDA), and Linden Street businesses. He stated key goals of the project are connecting Old Town Square to the River District, creating more flexible space along Linden Street, and complimenting the past while planning for the future. He stated staff is considering options to extend the City's outdoor dining program and formulate a new City policy based on feedback received from the business community and coordination with state regulations.

Kyle Lambrecht, Project Manager, discussed the importance of the collaborative effort between the City, DDA, area businesses, and the project contractor. He outlined the history of the project noting it was delayed due to COVID. He stated intersection improvements have occurred in 2021 and the remaining improvements will occur in 2022. He showed renderings of the project and photos of the intersection improvements.

Mayor Arndt asked if there were a state statute that would prevent the continuation of outdoor dining and alcohol sales. Buckman stated temporary modifications of premises are in place through the end of October which allows for the flexibility of the outdoor communal dining space. He also noted staff is examining how to adapt the policy, per state regulations, to the downtown area and Linden Street.

Mayor Pro Tem Gorgol stated she would like to look at something at the city level that would allow the continuation of the outdoor dining options. She commended the work on the project.

Councilmember Gutowsky concurred with Mayor Pro Tem Gorgol and encouraged staff to look at the continuation of outdoor dining options on Linden Street.

City Manager Atteberry commended the area businesses, the flexibility of the contractor, and the work of Lambrecht and staff.

B. Staff Report: Connexion Transparency Update (staff: Ginny Sawyer, Erin Shanley)

Ginny Sawyer, Senior Project Manager, discussed the work that has occurred related to transparency with the Connexion project and stated the latest piece of that work is a service area map and address look-up feature.

Erin Shanley, Connexion Marketing Manager, detailed the service availability map feature on the web site noting it was not intended to be interactive but is a larger view. She also detailed the address look-up feature which utilizes real-time GIS data and allows residents to determine whether their property is in the design, construction, or service available phase. She stated residents are encouraged to sign up for email availability notification.

Councilmember Pignataro asked when full build-out of the system is to be complete. Shanley replied it will be complete in the last quarter of 2022.

Councilmember Pignataro asked why that specific language is not included on the web page. Sawyer replied the conclusion of the build process does not mean service will be available as there are multiple steps between build out and being able to provide service.

City Manager Atteberry noted there is a July 13th Council work session on the Connexion topic and stated he feels very good about the progress with both the build-out and take rates when the system becomes live in an area. He stated this project will make Fort Collins one of, if not the most, connected communities in the United States.

Councilmember Canonico commented on the enthusiasm for Connexion in her neighborhood and on the quick response by the contractors when sprinklers are affected.

● **COUNCILMEMBER REPORTS**

Councilmember Ohlson requested individuals speak closer to microphones to enable everyone to hear.

Councilmember Pignataro reported on the Poudre Fire Authority change of command ceremony and a reception for Council at the Global Village Museum.

Councilmember Gutowsky encouraged the public to visit the Global Village Museum. She reported on the Fort Collins Police Service awards, on the fall groundbreaking for the new behavioral health facility, and on a recent ice skating performance at EPIC.

Mayor Arndt reported on the Gasoline Lollipops performance at Spring Creek Gardens and on participating in a FoCo Fondo gravel bike ride.

Mayor Pro Tem Gorgol noted Bike to Work Day is June 23.

Councilmember Peel reported on visits with groups on how to get involved in local government and on visiting the Boards and Commissions for which she is the liaison.

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

- **DISCUSSION ITEMS**

14. **Second Reading of Ordinance No. 073, 2021, Making Supplemental Appropriations of American Rescue Plan (ARP) Act and Coronavirus Response and Relief Supplemental Appropriations Act (CRRSAA) Funding. (Adopted on Second Reading)**

This Ordinance, adopted on First Reading on June 1, 2021 by a vote of 5-1 (Nay: Ohlson), appropriates grant revenue allocated to Transfort by the Federal Transit Agency (FTA). Transfort was awarded \$1,509,248 and will net the amount of \$1,284,514 in Section 5307 and 5310 CRRSAA Funding. Additionally, Transfort was awarded \$8,964,773 and will net the amount of \$7,626,773 in ARP Section 5307 and 5310 Funding through FTA apportionments to urbanized areas. Both CRRSAA and ARP funding is provided at a 100-percent federal share, with no local match required, and is available to support capital, operating, and other expenses to prepare for and respond to COVID-19. Transfort plans to use these funds to pay for what has been previously allocated from the General Fund for operating assistance, preventative maintenance, capital projects, contracted service costs, and enhancing mobility for seniors and those with disabilities.

Drew Brooks, Transit Director, stated this ordinance would appropriate two pieces of grant funding, one from the Coronavirus Response and Relief Supplemental Appropriations Act (CRRSAA) and one from the American Rescue Plan (ARP). The funds were intended to provide immediate relief for American workers, help communities that are struggling in the wake of the pandemic, and ensure transportation systems keep running. He noted the grant funding totals about \$10.5 million and Fort Collins is the designated recipient of the funds for the transportation management area; therefore, the City will be apportioning funds to the North Front Range Metropolitan Planning Organization and to Berthoud Area Transit System. He stated the total Transfort financial impact will be just under \$9 million.

Brooks stated there is some urgency in this appropriation as the Federal Transit Administration has mandated the funds be appropriated and the grants be programmed by September 30th.

Councilmember Ohlson thanked staff for the follow-up information and stated he would be in support of the ordinance on second reading.

Kurt Kastein questioned the written explanations for how the planned use of these funds address COVID-19.

Brooks stated staff will provide a detailed list of projects as they are identified to the Council Finance Committee and the Transportation Board. He stated the grant opportunity also allows for the continuation of efforts to improve transit services moving forward. He also noted there is strong oversight from the Federal Transit Administration on how the funds are programmed.

Mayor Pro Tem Gorgol made a motion, seconded by Councilmember Gutowsky, to adopt Ordinance No. 073, 2021, on Second Reading.

RESULT:	ORDINANCE NO. 073, 2021, ADOPTED ON SECOND READING [UNANIMOUS]
MOVER:	Emily Gorgol, District 6
SECONDER:	Susan Gutowsky, District 1
AYES:	Pignataro, Gorgol, Arndt, Canonico, Peel, Ohlson, Gutowsky

15. **Second Reading of Ordinance No. 075, 2021, Appropriating Prior Year Reserves in the Community Capital Improvement Program Fund for Public Engagement for the Southeast Community Innovation Center and Pool. (Adopted on Second Reading)**

This Ordinance, adopted on First Reading on June 1, 2021 by a vote of 5-1 (Nay: Ohlson), appropriates funds to hire a consultant to conduct public outreach that will be used to provide program plan services for the Southeast Community Innovation Center and Pool that was approved in the BOB 2 (Building on Basics) ballot measure in 2015.

Aaron Harris, Interim Recreation Director, discussed the ballot language that approved the construction of a \$17.7 million community center in southeast Fort Collins focused on innovation, technology, art, recreation, and the creative process. He stated the center will have a large outdoor leisure pool with water slides, sprays, jets, a lazy river, and open swim area. He discussed the importance of future-proofing the center so it is more ready and accessible for future generations of Fort Collins residents. This ordinance will appropriate funds to allow for community engagement and outreach to determine priorities and to determine financial stability for the center by conducting a program analysis to verify long-term revenue and expense projections.

Harris stated recreation staff lack the current industry knowledge of innovation center facility planning to be able to meet the timeline for the project. He stated consultants bring industry-specific knowledge with technology, design, and experience to determine feasibility.

Phoebe McWilliams asked where the pool will be constructed. City Manager Atteberry replied the specific site has yet to be identified; however, the ballot language specifies the southeast quadrant of town. He stated Fossil Creek Park has been identified as one possibility which means the property would not have to be purchased; however, there would be a cost associated with buying another private property.

Mayor Pro Tem Gorgol made a motion, seconded by Councilmember Canonico, to adopt Ordinance No. 075, 2021, on Second Reading.

RESULT:	ORDINANCE NO. 075, 2021 ADOPTED ON SECOND READING [UNANIMOUS]
MOVER:	Emily Gorgol, District 6
SECONDER:	Tricia Canonico, District 3
AYES:	Pignataro, Gorgol, Arndt, Canonico, Peel, Ohlson, Gutowsky

16. **Items Relating to the Completion of the 2021 Spring Cycle of the Competitive Process for Allocating City Financial Resources to Affordable Housing and Community Development Activities Utilizing Funds from the Federal Community Development Block Grant (CDBG) Program, Federal HOME Investment Partnerships (HOME) Program, the City's Affordable Housing Fund (AHF) and the City's Human Services Program (HSP), and Appropriating Funding Accordingly. (Adopted on Second Reading)**

A. *Second Reading of Ordinance No. 076, 2021, Appropriating Unanticipated Revenue in the Community Development Block Grant Fund.*

B. *Second Reading of Ordinance No. 077, 2021, Appropriating Unanticipated Revenue in the HOME Investment Partnerships Program.*

These Ordinances, adopted on First Reading on June 1, 2021 by a vote of 4-1 (Nay: Ohlson; Recuse: Canonico) appropriate the City's FY2021 Community Development Block Grant (CDBG) Entitlement Grant and FY2021 Home Investment Partnerships Program (HOME) Participating Jurisdiction Grant from the Department of Housing and Urban Development (HUD), and CDBG program income from FY2019 & FY2020 and HOME Program Income from FY2019 & FY2020.

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

Councilmember Canonico stated she recused herself from the First Reading of this item; however, she has since resigned from her position at The Family Center and will participate in this discussion.

Adam Molzer, Social Sustainability, stated the competitive grant process is administered annually by Social Sustainability to award grant funding to affordable housing and human services programs in Fort Collins. He outlined the City's strategic objectives supported by this process and provided details regarding the projects and proposals seeking grant funding.

Beth Rosen, Social Sustainability, provided additional details regarding the funds for the competitive process noting they are sourced from both federal resources and the City's General Fund revenues.

Jeremy (no last name given) asked if the funding will be for housing for homeless residents. Rosen replied the funds allocated for housing in this round are not specifically allocated for permanent supportive housing or affordable housing for individuals experiencing homelessness; however, there will be additional opportunities in the spring with funds specifically targeted to homeless and vulnerable populations.

Councilmember Pignataro made a motion, seconded by Councilmember Gutowsky, to adopt Ordinance No. 076, 2021, on Second Reading. Yeas: Peel, Ohlson, Gutowsky, Pignataro,

Canonico and Arndt. Nays: none.

RESULT:	ORDINANCE NO. 076, 2021 ADOPTED ON SECOND READING [6 TO 0]
MOVER:	Julie Pignataro, District 2
SECONDER:	Tricia Canonico, District 3
AYES:	Pignataro, Arndt, Canonico, Peel, Ohlson, Gutowsky
RECUSED:	Gorgol

Councilmember Pignataro made a motion, seconded by Councilmember Canonico, to adopt Ordinance No. 077, 2021, on Second Reading.

Councilmember Ohlson stated he voted no on this item and the previous two as he needed additional financial information, which he received. He commended the follow-up memo provided by Beth Rosen.

RESULT:	ORDINANCE NO. 077, 2021 ADOPTED ON SECOND READING [6 TO 0]
MOVER:	Julie Pignataro, District 2
SECONDER:	Tricia Canonico, District 3
AYES:	Pignataro, Arndt, Canonico, Peel, Ohlson, Gutowsky
RECUSED:	Gorgol

17. First Reading of Ordinance No. 064, 2021, Appropriating Prior Year Reserves for a Municipal Immigration Legal Fund Pilot Program. (Adopted as Amended on First Re)

The purpose of this item is to appropriate \$250,000 in General Fund Reserves to create a Municipal Immigration Legal Fund pilot program. If approved, this appropriation would create a pilot grant program to fund local access to legal services to assist Fort Collins residents in the complex legal proceedings required to seek citizenship or to formally establish lawful presence. Grant funds would be awarded to legal service providers based on a competitive process and would be dedicated to providing defense and legal support for Fort Collins residents:

- *at risk of deportation;*
- *children seeking Special Immigrant Juvenile Status;*
- *seeking pathways to citizenship and lawful presence (also known as Affirmative Cases);*

and additionally, to pay for program administration, education, and outreach. The Council Finance Committee reviewed this appropriation request at its April 19, 2021, and May 24, 2021, meetings.

Caryn Champine, Planning, Development, and Transportation Director, stated this Ordinance would provide a one-time appropriation of up to \$250,000 for an 18-month pilot program immigration legal fund. She stated 100% of these funds will be allocated to a service provider, or multiple service providers, after a competitive grant process, and the funds will be used to meet unmet needs of undocumented community members within Fort Collins who are seeking a legal path to citizenship or a lawful presence within the community.

Leo Escalante, Communications, Public Involvement and Outreach Office, stated adoption of this ordinance is in alignment with strategic outcomes, the 2020 Legislative Policy Agenda, and Resolution 2019-100, as well as the Social Sustainability Strategic Plan. He stated there are approximately 4,500 Fort Collins residents in need of immigration legal services and noted this program will not include any qualifiers. He discussed the outreach conducted.

JC Ward, Neighborhood Services, stated some Councilmembers were interested in this fund prioritizing cases involving juveniles or crime victims and the proposed appropriation request amount would accommodate a larger caseload of those specific case types. However, she noted the City will not have control over the number and type of cases or program administration costs, which are estimated at up to \$90,000 for an 18-month pilot program. She stated Council can set a cap on the percentage of funding available for program administration.

Ward discussed program metrics noting measuring both outputs such as participant or case numbers, and outcomes such as safety and equity, are crucial to the program. She stated the timeline indicates an estimated length of each step following a funding appropriation. She stated the timeline for service delivery is dependent upon the proposed models from the grant applications received.

Joliann Beck requested Council not move forward with the formation of an immigration legal fund stating it presents an equity issue. She also opposed the placement of this item last on the agenda.

G Inguanta supported the formation of an immigration legal fund.

Dick DeCook opposed the formation of an immigration legal fund and stated any Councilmember who votes to support it would be in direct violation of the oath of office.

Josie (no last name given) stated the 6th Amendment of the Constitution guarantees that every person has the right to counsel and supported the formation of an immigration legal fund.

Diane Shands stated there are ways to enter the United States legally and those who are not here legally should not be awarded with benefits earned by hardworking citizens. She suggested this appropriation is illegal and stated it should at least be placed on the ballot prior to the fund being formed.

Julie Deters opposed the formation of an immigration legal fund.

Kristi Smiley opposed the formation of an immigration legal fund.

Michael Strumpler opposed the formation of an immigration legal fund and stated this item should have appeared earlier in the agenda.

Tom Rhodes, Interfaith Solidarity and Accompaniment Coalition, supported the formation of an immigration legal fund.

Kurt Kastein appreciated treating all individuals equally and stated the City's role is to fund services for the United States citizens of Fort Collins.

Lisa Maclean stated the formation of an immigration legal fund is not the proper role of Fort Collins City Council.

Tom Drean opposed the formation of an immigration legal fund.

Lynn Jacquart opposed the formation of an immigration legal fund.

Glenn Frank expressed support for legal immigration; however, he opposed the formation of an immigration legal fund.

Bill Lamb opposed the formation of an immigration legal fund and expressed concern its formation will make Fort Collins a magnet for unlawful immigrants.

Chuck DeGreve opposed the formation of an immigration legal fund.

James Martin opposed the formation of an immigration legal fund.

Charlie Mesulian opposed the formation of an immigration legal fund and expressed concern Mayor Pro Tem Gorgol may have a conflict of interest.

Amy Hoeven supported the formation of an immigration legal fund, specifically citing the needs of students.

Caleb Larson opposed the formation of an immigration legal fund.

Stanley Young (Cain) opposed the formation of an immigration legal fund.

Dane Slinkard opposed the formation of an immigration legal fund and stated immigrants are granted due process under the law.

Hannah (no last name given) opposed the formation of an immigration legal fund.

Phoebe McWilliams opposed the formation of an immigration legal fund.

Christina Galloway opposed the formation of an immigration legal fund.

Anthony Asuega supported the formation of an immigration legal fund.

Barbara Choury opposed the formation of an immigration legal fund and expressed concern two Councilmembers may have a conflict of interest.

Keilly Lyon supported the formation of an immigration legal fund citing her experience as a DACA student.

Gertrude Bougher opposed the formation of an immigration legal fund.

Raquel Lane Arellano, Colorado Immigrant Rights Coalition, supported the formation of an immigration legal fund.

Melinta Quantz, La Cocina Director, supported the formation of an immigration legal fund.

Joy Athanasiou supported the formation of an immigration legal fund.

Russell McClure opposed the formation of an immigration legal fund.

Scott Horak opposed the formation of an immigration legal fund.

Mary Kay Morrison expressed support for legal immigration but opposed the formation of an immigration legal fund.

Deborah Kellogg opposed the formation of an immigration legal fund.

Karen Artell supported the formation of an immigration legal fund.

Alyssa Esposito supported the formation of an immigration legal fund.

Ingrid Justin supported the formation of an immigration legal fund.

Kristin Heightner supported the formation of an immigration legal fund.

Debbie Kahow supported the formation of an immigration legal fund.

Brittany (no last name given) expressed support for legal immigration but opposed the formation of an immigration legal fund. She stated it is not up to the City to fix federal immigration issues.

Jessie Andean opposed the formation of an immigration legal fund.

Patricia Miller stated the immigration system lacks due process and expressed support for the formation of an immigration legal fund.

Sarah Grace Hafen supported the formation of an immigration legal fund.

Emily Gallishote supported the formation of an immigration legal fund.

Dr. Elizabeth Keany supported the formation of an immigration legal fund.

Mayor Arndt noted Council has received many written comments in addition to the verbal comments.

Councilmember Pignataro asked if there is any evidence that immigrants are moving to communities among the 42 identified communities that have a similar fund. Escalante replied staff research has not shown an increase in the number of immigrants in communities with a legal services fund. He noted there are other factors such as housing affordability and job availability that have a greater impact on immigration.

Councilmember Pignataro asked if the formation of this fund would be illegal or in direct violation of the Constitution. City Attorney Daggett replied the concern about a program such as this violating the equal protection clause or other Constitutional provisions is likely not well founded because the program is intended to assist participants in the legal process using legal and appropriate means. Regarding the Council's role and duties under the City Charter, she stated this is a good example of the type of decision that is within the Council's purview in evaluating what kinds of uses of City funds are intended and expected to advance public purposes and the common good; therefore, Council is applying its judgement in evaluating the extent to which a program like this might benefit the community in any number of ways.

Councilmember Pignataro requested the dates of the work sessions on this topic. Ward replied the work sessions were on March 23 and in May.

Councilmember Pignataro requested details about the program administration. Ward replied program administration costs are broken out in both the request for proposal process and the grant award process as there is a requirement for coordination and reporting the information back to the City to ensure needs are being fulfilled under the grant. She stated it is the same type of model

used for other Neighborhood Services mini-grants, such as the eviction legal defense fund. She stated Council can opt to put a cap on the percentage of program administration costs which could be implemented through the grant review process.

Mayor Arndt requested additional information on whether this is a pilot or a program and whether there is a difference between the two. City Manager Atteberry replied this is very intentionally a pilot per Council's direction. It will be short-term and one time, not intended to be continued in perpetuity unless Council expresses that direction in 18 months. He noted programs are budgeted with ongoing funding whereas pilots are funded with one-time dollars. City Attorney Daggett noted this is a pilot; however, it is referenced in the ordinance as a 'program' which could be modified to read 'pilot program.'

Mayor Arndt asked how the timeline would work should Council want to fold this into a regular budget cycle. City Manager Atteberry the 2023-2024 budget cycle will begin formation next spring with a recommended budget being presented to Council in September of 2022.

Councilmember Canonico asked about the eviction legal defense fund. Ward replied there is an eviction legal defense fund currently in place funded through Cares Act funding and it runs through the same type of model that is proposed for the immigration legal fund.

Mayor Arndt asked if the eviction legal defense fund is predicated on legal status. Ward replied in the affirmative noting that is because the funds are from federal sources.

Mayor Pro Tem Gorgol made a motion, seconded by Councilmember Pignataro, to adopt Ordinance No. 064, 2021, on First Reading.

Mayor Pro Tem Gorgol suggested some amendments to the Ordinance including a requirement that staff provide a quarterly report. She questioned whether a program coordinator is necessary for a pilot program and noted its removal would reduce the cost of the program.

Councilmember Gutowsky stated several changes need to be made in order to help the ordinance be more effective. She made a motion, seconded by Councilmember Ohlson, to amend the ordinance to delete the program coordinator position and reduce the request from \$250,000 to \$100,000. She stated she understands the community need and purpose for the funds, the proposed amount to be drawn from the General Fund reserves is too high and does not follow the traditional budget process.

Councilmember Gutowsky made a friendly amendment to change her motion to amend the ordinance to delete the program coordinator position and reduce the request from \$250,000 to \$150,000. Councilmember Ohlson accepted the amendment as friendly.

Councilmember Pignataro expressed concern there may not be enough data to show whether the program was successful if the dollar amount is too low.

City Manager Atteberry stated it would be beneficial for staff to discuss the program coordinator role in a more in-depth fashion. He noted that work would be provided by an outside provider per the ordinance as written and there is some concern that, if removed, that duty would become an administrative responsibility of the staff team, which is not properly resourced.

Champine noted there is not a mandate in the program that a service provider must have a program

coordinator and it is possible a service provider that is the recipient of this grant fund has existing staff resources to support the needs of the program; however, she stated staff was attempting to consider the very possible circumstance that a program coordinator would be necessary. She noted Council could also impose a percentage cap on the amount that would go toward coordination responsibilities.

Councilmember Ohlson noted the suggested program cost reduction to \$150,000 is only a \$10,000 reduction in legal costs as the program coordinator was a \$90,000 cost. He stated he is more supportive of a zero-dollar amount however.

Councilmember Gutowsky stated the controversy lies in the question of whose responsibility it is to provide this service. She suggested it should be a shared responsibility and stated she is not comfortable dipping into City coffers to fully fund a program that has not been measured against other community needs. She stated citizens are used to having a voice in the budgeting process and expressed concern about the irregular nature of this process. She stated community change involves full participation from a shared partnership and she sees the City as the facilitator of change and a one-time investment of \$150,000 will provide the spark to get things started.

Mayor Arndt asked if any of these funds would go toward hiring a paralegal that is a City employee. Champine replied none of the funding will go toward the City at all; 100% of the funding will go to the grant recipients which could be one or multiple service providers through which program administration would occur.

City Manager Atteberry reiterated there will be no City employees hired resulting from action Council would take regarding this item.

Mayor Pro Tem Gorgol asked if percentage caps have been put into place with other programs, and if so, what that number was. Champine replied staff could research other comparable programs; however, she noted the cap for federal programs is typically 15%.

Mayor Pro Tem Gorgol asked if the cost for program administration is included in the funded amounts on the spreadsheet of existing programs. Ward replied there is a wide variety of means of operation for the existing programs researched by staff.

Councilmember Peel asked why this would not go through the grant process as other non-profits do. City Manager Atteberry replied this is off-cycle from the budget standpoint and as the funding for this program would come from the City's General Fund, it would not be part of the Community Development Block Grant process.

Councilmember Pignataro stated she had been considering this as a mid-year budget appropriation, which is common. She also noted the 18-month timeline will help get the information needed to place it during the next proper budgeting time.

Councilmember Ohlson stated his objection to this is it is one item being brought forth out of the regular budget cycle and it is not being judged against other items as it would be in the case of a mid-cycle budget adjustment. He also suggested this item should have been placed earlier on the agenda.

Mayor Pro Tem Gorgol noted this topic has been before Council for almost a year and was vetted through the Community Impact Committee and was stacked against multiple other options. She

stated program administration is important; therefore, she would not support the motion to amend. However, she would support a percentage cap.

Councilmember Ohlson stated he did not believe the general public knew much about this topic as he only learned about it in March. He asked what other options the program was vetted against and by whom. Mayor Pro Tem Gorgol replied it did not go through a normal budget process; however, it was vetted against other programs. She requested staff provide a memo including the report from the Community Impact Committee.

Councilmember Peel asked why this item did not go through the regular budget process. Mayor Pro Tem Gorgol replied it may have come as part of a mid-year cycle; however, the one-year budget did not allow for that opportunity. She stated the Community Impact Committee (CIC) was tasked with providing a funding recommendation during the last budget process; however, because of the amount of work involved, the Committee did not have recommendations until after the normal budget process.

City Manager Atteberry stated he would provide more information regarding the CIC and noted it was a Council-formed subcommittee of three Councilmembers who were tasked with working with staff. He noted the CIC meetings were all public and published and stated he will provide the enabling resolution that created the CIC and its final report as well as additional context about how this item fits within the budget process.

Councilmember Gutowsky repeated her motion to amend the ordinance to delete the program coordinator position and reduce the request from \$250,000 to \$150,000. She noted that while she understands the community need and purpose for the funds, she feels the amount to be drawn from the General Fund reserves is too high and does not follow the traditional budget process.

The vote on the motion to amend was as follows: Yeas: Gutowsky and Ohlson. Nays: Pignataro, Canonico, Arndt, Gorgol and Peel.

THE MOTION FAILED.

Mayor Pro Tem Gorgol repeated her motion to adopt Ordinance No. 064, 2021, on First Reading, as amended to add a section requiring quarterly staff reports. She stated she would like to have a conversation regarding caps on coordination or management costs.

City Attorney Daggett read proposed language for the added section. Mayor Pro Tem Gorgol and Councilmember Pignataro accepted the language as being a friendly amendment.

Councilmember Pignataro asked whether enough data regarding the success of the program would be collected if the funding level were decreased. Ward replied the ability to handle the caseload decreases as funding levels decrease. She stated the \$250,000 amount was set based on feedback received at the work session regarding interest in affirmative cases and special immigrant juvenile status cases. She outlined the types of cases and estimated numbers of each that could be addressed with this fund.

Mayor Arndt stated she would support the motion as it is a pilot program. She stated she would be interested in possibly placing a cap on administration costs for Second Reading. She stated she does not believe this mid-cycle appropriation is unusual and she is satisfied there is a community need for this program. Additionally, she agreed controversial subjects should be placed first on

the agenda.

Councilmember Gutowsky made a motion, seconded by Councilmember Ohlson, that the ordinance be amended to include a proof of residency for participants to qualify in the legal aid program to mitigate the chance that new arrivals would seek the assistance that should be reserved for those residents that have been living in Fort Collins for at least a year and have been contributing to the vitality of the community. She further moved that the applicant must be a resident prior to June of 2020.

Councilmember Pignataro asked staff to address existing ordinance language that may be similar to this amendment. Champine replied the program would have a residency requirement; however, there is no existing language regarding a required length of residency. City Attorney Daggett clarified the ordinance references Fort Collins residents; however, it does not contain explicit language regarding a residency requirement or length of residency. She stated the addition of a recital that would incorporate the language stated in the motion would be a way to accomplish that.

Councilmember Pignataro stated she would not support the amendment as the results of the pilot program should influence whether a length of residency requirement should be considered.

Councilmember Ohlson stated the purpose of the motion is to ensure the beneficiaries of the program were Fort Collins residents prior to the program taking effect. Additionally, it would aim to diminish some of the concerns that people may move here to get legal assistance.

Councilmember Pignataro noted staff has not seen an influx of immigrants in communities wherein these types of programs already exist. She also noted asylum seekers only have a year to apply should this move forward.

Mayor Arndt suggested a length of residency metric should be included in collected data should this motion fail.

The vote on the motion to amend was as follows: Yeas: Canonico, Peel, Ohlson and Gutowsky. Nays: Arndt, Gorgol and Pignataro.

THE MOTION CARRIED.

Councilmember Gutowsky made a motion, seconded by Councilmember Ohlson, to amend the ordinance to prioritize cases involving children, DACA recipients, and victims of violence to receive legal aid services before providing services to other cases.

Councilmember Pignataro asked if this language is already included in the ordinance.

Councilmember Ohlson stated the details are important and suggested 80% of the funds should go to assist individuals in those categories.

Mayor Arndt stated she would not support the motion given it is a pilot program and she did not believe funds should be restricted. She stated she would like that information reported in the metrics, however.

Mayor Pro Tem Gorgol stated having these types of qualifiers do not honor the intent of the program and community partners will help understand where funds are needed.

Mayor Arndt also noted funds could be wasted if 80% of applicants do not fall within those three categories.

The vote on the motion to amend was as follows: Yeas: Peel, Ohlson and Gutowsky. Nays: Arndt, Gorgol, Pignataro and Canonico.

THE MOTION FAILED.

Councilmember Gutowsky made a motion, seconded by Councilmember Ohlson, that the ordinance be amended to include means testing of applicants for legal aid services to assure that the assistance goes to those with the greatest financial need.

Mayor Arndt requested staff provide input on this motion. Champine replied staff considered this option and determined moving this program from universal representation or the equity program category would place it in a public benefit category that was not permitted. City Attorney Daggett stated the concern would be that if the program is structured in a way that it would fall within the definition of public benefit, an affidavit of lawful presence would be required to be obtained from recipients, which in this instance would be essentially impossible to obtain as the issue being proposed to address is an issue related to lawful presence.

Councilmember Gutowsky stated it seems conflicting that assistance cannot be provided to those most in need but acknowledged there are legalities that cannot be avoided.

Councilmember Ohlson asked if the legal advice is that there is no way to prevent low- and moderate-income Fort Collins citizens from subsidizing wealthy non-resident individuals who are seeking assistance from this legal defense fund. City Attorney Daggett replied income eligibility criteria result in putting the program at high risk of being considered a public benefit program which would trigger the lawful presence affidavit requirement and having a program with a broader scope aimed at providing immigration legal assistance of certain types to those in the community who need it would be providing a service to a segment of the population rather than to individuals who meet specific qualifications. She stated the answer to Councilmember Ohlson's question is essentially yes.

Mayor Arndt stated that metric could also be including in reporting.

Councilmember Gutowsky withdrew her motion to amend as it does not comply with legal restrictions. Councilmember Ohlson concurred.

Councilmember Ohlson expressed concern this is not a normal off-budget cycle situation but expressed support for the various viewpoints on Council.

Mayor Pro Tem Gorgol stated immigration legal funds are important to her as immigrants are a part of the community and due process is a right guaranteed under the United States Constitution and currently not everyone has access to a fair process. She thanked staff for their work.

Councilmember Pignataro commented on this item having nothing to do with the COVID-related budget cuts and stated she sees this as a legitimate priority for the mental and economic health of the community.

Councilmember Gutowsky stated she would not support the motion on First Reading as her

proposed amendments were important.

Councilmember Peel commented on the humanitarian immigration crisis and discussed the research she has done on this topic. She stated that while she understands the contribution of immigrants to the workforce and tax base, she cannot support this fund for some of the reasons mentioned this evening and because immigrants are entitled to a hearing, but not to representation. She stated she believes this is beyond the scope of the City's responsibility. She stated she wants a fair, reasonable, and orderly immigration process and she encouraged citizens to contact Congressional representatives as it is their responsibility to fix this issue. She also commented on the importance of individuals participating in helping with the crisis.

Councilmember Canonico commented on the importance of the contributions of the immigrant community and stated immigrants need a path forward. She agreed it needs to be fixed at the federal level; however, it has been that way for decades. She stated this pilot program provides the opportunity to determine whether a difference can be made on local level.

The vote on the original motion, as amended, was as follows: Yeas: Pignataro, Canonico, Arndt and Gorgol. Nays: Peel, Ohlson and Gutowsky.

Mayor Pro Tem Gorgol requested more information on program coordination prior to Second Reading.

RESULT:	ORDINANCE NO. 064, 2021, ADOPTED AS AMENDED ON FIRST READING [4 TO 3]
MOVER:	Emily Gorgol, District 6
SECONDER:	Julie Pignataro, District 2
AYES:	Pignataro, Gorgol, Arndt, Canonico
NAYS:	Peel, Ohlson, Gutowsky

Motion to Suspend the Rules to Continue past 10:30 PM.

Mayor Pro Tem Gorgol made a motion, seconded by Councilmember Pignataro, to suspend the rules to continue the meeting past 10:30 PM.

RESULT:	MOTION ADOPTED [6 TO 1]
MOVER:	Emily Gorgol, District 6
SECONDER:	Julie Pignataro, District 2
AYES:	Pignataro, Gorgol, Arndt, Canonico, Ohlson, Gutowsky
NAYS:	Peel

● **OTHER BUSINESS**

- A. Possible consideration of the initiation of new ordinances and/or resolutions by Councilmembers
(Three or more individual Councilmembers may direct the City Manager and City Attorney to initiate and move forward with development and preparation of resolutions and ordinances not originating from the Council's Policy Agenda or initiated by staff.)
- B. Consideration of a motion related to the process to fill a vacancy on the Planning and Zoning Commission and possible motion directing staff follow up:

Mayor Pro Tem noted there was an issue with the order of names on various documents with

respect to filling the Planning and Zoning Commission vacancy and suggested reopening the vacancy on the Commission and having a short list of candidates created by herself, as the liaison, and Mayor Arndt for a panel interview before Council.

Councilmember Ohlson noted the previous interview team consisted of Councilmember Cunniff and Mayor Troxell, not because he was the Mayor, but because he was on the interview team.

Councilmember Pignataro suggested Council should decide how many people it will interview prior to opening applications.

Councilmember Ohlson volunteered to be part of the team who will narrow down the field of applicants.

Mayor Pro Tem Gorgol clarified all of Council will have an opinion and stated she and Councilmember Ohlson will be the two who will narrow down the field of applicants so as not to require the meetings to be public with three members present.

Mayor Arndt suggested Council interview five individuals.

Councilmember Gutowsky stated the most recent documentation stated Jerry Gavaldon was to be the new member and she suggested honoring that appointment first and the appointment of Kathryn Dubiel in the next available opening.

Councilmember Pignataro stated she did not believe it was appropriate to appoint either of them as the previous Council opted to have this Council make the appointment.

Councilmember Ohlson suggested Council interview Jerry Gavaldon, Kathryn Dubiel, who do not need to reapply, as well as five new applicants. Councilmembers agreed that was a fair solution.

Councilmember Gutowsky asked how the interviews would occur. City Attorney Daggett replied it would depend on whether Council wanted to take action on the same day as the interviews, in which case, they should be conducted in conjunction with a regular or special meeting. However, if Council wanted to have a work session and conduct interviews, it could return at the next meeting and vote. She stated two members conferring together to determine the list will need to be considered as a decision-making body having a public meeting; however, if each independently determines his or her own list of suggestions for Council to consider, notice of a public meeting is not required.

Mayor Pro Tem Gorgol asked how Mayor Troxell and Councilmember Cunniff dealt with this in the past. City Attorney Daggett replied they made independent recommendations.

Councilmembers discussed the proper way of addressing the issue and it was determined City Attorney Daggett would further weigh in prior to the process going forward. City Attorney Daggett outlined suggested motion language.

Mayor Pro Tem Gorgol made a motion, seconded by Councilmember Canonico, that staff advertise for and receive applications for the current vacancy on the Planning and Zoning Commission, with Mayor Pro Tem Gorgol and Councilmember Ohlson recommending to Council up to five candidates to consider in designating five finalists, together with candidates Jerry Gavaldon and Kathryn Dubiel as additional finalists, with interviews by Council scheduled to follow and then

Council action to name a Commission appointee and a backup appointee.

Jerry Gavaldon stated he was informed of this meeting via an email from Paul Sizemore and he believed Kathryn Dubiel was also given the same courtesy. He stated he is showing his passion, due diligence, and professionalism by having waited through this meeting to speak. He discussed his experience, noted he is a lifelong Fort Collins resident, and stated he has received letters of support. He questioned the fairness of the process.

Sarah Rossiter expressed support for developing an established process and questioned whether back up choices will be listed in subsequent recommendation forms. She stated the question regarding whether a simple clerical error occurred or whether a substantiated, documented change occurred.

Rory Heath supported the appointment of Kathryn Dubiel to provide a balance to the Commission.

Mayor Pro Tem Gorgol suggested revisiting the appointment process for quasi-judicial boards moving forward.

City Attorney Daggett suggested the wording of the motion may want to be changed from 'alternate appointee' to 'backup appointee.'

Mayor Arndt suggested backup appointees should only be viable for a certain amount of time.

Mayor Pro Tem Gorgol accepted the language change for the motion and suggested the resolution could clarify the language regarding how long the backup appointee would remain viable.

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

C. Consideration of a motion to go into Executive Session to discuss issues related to Broadband:

"I move that City Council go into executive session to consider matters pertaining to issues of competition in providing telecommunication facilities and services including matters subject to negotiation, strategic plan, price, sales and marketing, development phasing and any other related matter allowed under Colorado Law, as permitted under Article XII, Section 7(d) of the City Charter and Section 2-31(a)(5) of the City Code."

RESULT:	WITHDRAWN
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● **ADJOURNMENT**

Council will consider a motion to adjourn to 6:00 p.m. on Tuesday, June 22, 2021 for mid-year review of City Manager, City Attorney and Chief Judge.

Mayor Pro Tem Gorgol made a motion, seconded by Councilmember Pignataro, that Council adjourn this meeting to 6:00 p.m. on Tuesday, June 22, in order to consider a motion to go into executive session to conduct mid-year performance reviews of the Council's direct report employees, and for such other business as may come before the Council.


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

The meeting adjourned at 11:27 PM.



Mayor

ATTEST:



Interim City Clerk



