

RESOLUTION 2021-024
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING RESOLUTION 2020-105 TO REVISE, AS ORDERED BY THE LARIMER
COUNTY DISTRICT COURT, THE CITIZEN-INITIATED ORDINANCE AND ITS
BALLOT TITLE AND SUBMISSION CLAUSE CONCERNING THE HUGHES STADIUM
PROPERTY AND TO SUBMIT THEM TO A VOTE OF THE REGISTERED ELECTORS OF
THE CITY AT THE REGULAR MUNICIPAL ELECTION ON APRIL 6, 2021

WHEREAS, on November 17, 2021, City Council adopted Resolution 2020-105 (“Resolution 105”) submitting a citizen-initiated ordinance concerning the Hughes Stadium property (the “Initiated Ordinance”) and submitting the Initiated Ordinance’s ballot title and submission clause (the “Ballot Measure”) to a vote of the City’s registered electors at the City’s regular election on April 6, 2021; and

WHEREAS, City Council submitted the Initiated Ordinance and Ballot Measure provisionally and conditionally in Sections 2 and 3 of Resolution 105, respectfully; and

WHEREAS, the Initiated Ordinance and Ballot Measure were submitted provisionally and conditionally due to City Council’s direction to the Fort Collins City Attorney in Section 4 of Resolution 105 to file a declaratory judgment action in Larimer County District Court (“District Court”) to seek a judicial determination as to which matters in the Initiated Ordinance and Ballot Measure are a legislative matter appropriate for a citizen initiative under Colorado Constitution and the City’s Charter and which are an administrative matter not appropriate for a citizen initiative under the Colorado Constitution and Charter; and

WHEREAS, Section 5 of Resolution 105 provided that if the District Court in the declaratory action determined portions of the Initiated Ordinance and Ballot Measure are not properly the subject of a citizen initiative under the Colorado Constitution and City Charter, it was City Council’s intent for the Initiated Ordinance and Ballot Measure to be modified to reflect the Court’s decision and Section 6 of Resolution also provided that this matter be returned to City Council on before February 16, 2021, for its final determination of the wording for the Initiated Ordinance and Ballot Measure to be submitted to the City’s electorate at the April 6, 2021, regular election; and

WHEREAS, as directed by City Council, the declaratory action was filed in District Court on December 7, 2020, in *City of Fort Collins v. Planning Action to Transform Hughes Stadium Sustainably Corp, et al.*, Case No. 2020 CV 30833 (the “Declaratory Action”); and

WHEREAS, on February 3, 2021, the District Court issued its “Order Denying in Part and Granting in Part Motions for Summary Judgment” in the Declaratory Action, a copy of which is attached as Exhibit “A” and incorporated herein by reference (“February 3rd Order”); and

WHEREAS, in the February 3rd Order, the District Court determined Sections 5, 6 and 7 of the Initiated Ordinance were administrative matters not subject to the citizen-initiative power under the Colorado Constitution and City Charter and ordered these sections to be severed from the Initiated Ordinance; and

WHEREAS, on February 7, 2021, the District Court issued its “Order Granting in Part and Denying in Part Motion to Amend Final Judgment” in the Declaratory Action, a copy of which is attached as Exhibit “B” and incorporated herein by reference (“February 7th Order”); and

WHEREAS, in the February 7th Order, the District Court ordered the Ballot Measure to be submitted to the City’s electors be amended to be consistent with the Court’s February 3rd Order severing Sections 5, 6 and 7 from the Initiated Ordinance and set forth the wording to be used for the amended Ballot Measure; and

WHEREAS, as intended in Resolution 105, City Council adopts this Resolution to amend Resolution 105 to revise the Initiated Ordinance and Ballot Measure as ordered by the District Court in its February 3rd Order and February 7th Order.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. The City Council hereby adopts as findings and determinations the recitals stated above.

Section 2. That the City Council hereby amends Section 2 of Resolution 105 by submitting to the registered electors of the City at the next regular City election to be held on Tuesday, April 6, 2021, the following Initiated Ordinance revised as ordered by the District Court in its February 3rd Order:

WHEREAS, the citizens of Fort Collins have shown strong support to preserve and provide open space, natural areas, community separators, wildlife habitat, and trails for today and for the future; and

WHEREAS, Fort Collins citizens currently enjoy their open spaces and natural areas; the recreation they provide, such as walking, hiking, biking, wildlife viewing, bird watching, and fishing; the educational opportunities and programs provided to people of all ages and backgrounds; and the beautiful landscapes and views they provide; and

WHEREAS, open space, natural areas, wildlife habitat, community separators, agricultural lands, and trails benefit all members of the Fort Collins community; and

WHEREAS, conserved open space and natural areas help make Fort Collins a highly desirable place to live, work, and visit; and

WHEREAS, the City of Fort Collins values sustainability in policies, plans, strategies and projects that align with its Triple Bottom Line decision-making philosophy of social, economic and environmental well-being to meet its citizens’ present needs and the needs of future generations without compromising the ecosystems upon which we all depend; and

WHEREAS, the citizens of Fort Collins have provided continuous funding for open space and natural areas acquisition and maintenance since first voting for a capital improvement sales tax in 1973 and approving extensions or new revenue sources in every election such a question has appeared on the ballot; and

WHEREAS, Fort Collins has conserved over 40,000 acres of open space and natural areas since 1973; and

WHEREAS, the property formerly home to the Colorado State University's Hughes Stadium is a currently undeveloped 164.56-acre parcel of land that was recently annexed into the city of Fort Collins; and

WHEREAS, the City of Fort Collins has many distinct zoning districts in its land use code; and

WHEREAS, one zoning classification in the Fort Collins land use code is "Public Open Lands," which currently allows for parks, recreation and open lands, and wildlife rescue and education centers, subject to administrative or Planning and Zoning Board review; and

WHEREAS, the Hughes Stadium property is currently zoned as Transition District (T) pursuant to Division 4.12 of its land use code, which is intended for properties for which there are no specific and immediate plans for development; and

WHEREAS, the Hughes Stadium property occupies an area in between the current Maxwell Natural Area and Pineridge Natural Area; and

WHEREAS, the acquisition of the Hughes Stadium Property and conversion into a public open lands area would build upon the City's significant history of preserving open spaces and would provide an invaluable social, economic, and environmental resource for current and future generations of Fort Collins residents; and

WHEREAS, the Hughes Stadium property would represent a crown jewel acquisition for Fort Collins open space; and

WHEREAS, absent acquisition and conservation efforts under this ordinance, the Hughes Stadium property would forever be lost to residential and/or commercial development; and

WHEREAS, the acquisition of the Hughes Stadium property by the City of Fort Collins should occur using existing voter-approved open space sales tax revenue and other funds currently available to the City, financing agreements, grants, partnerships with other local governments, or other available fiscally responsible mechanisms; and

WHEREAS, publicly available information indicates Colorado State University values the Hughes Stadium property at \$10 million, and the City should use that

figure as a starting point in its negotiations to acquire the property at its fair market value; and

WHEREAS, the rezoning of the Hughes Stadium property into the Public Open Lands (P-O-L) zoning district pursuant to Article 1, Division 1.3 and Article 4, Division 4.13 of the land use code would be necessary to convert the property into an area for parks, recreation and open lands, and wildlife rescue and education.

NOW THEREFORE, BE IT ORDAINED AS FOLLOWS:

Section 1. That the City hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That the City shall acquire the Hughes Stadium property, a 164.56-acre parcel of land legally described in Section 3 of Fort Collins Ordinance No. 123 (2018) ("Annexing the Property Known as the Hughes Stadium Property Annexation to the City of Fort Collins, Colorado") at its fair market value for the purpose of using it for parks, recreation and open lands, natural areas, and wildlife rescue and education.

Section 3. That notwithstanding any contrary designation in the April 2019 City Plan or any action taken by the Council subsequent to its annexation of the Hughes Stadium property but before the passage of this Ordinance, the City shall rezone the Hughes Stadium property as Public Open Lands (P-O-L) zoning district pursuant to Division 4.13 of the City of Fort Collins land use code immediately upon passage of this Ordinance.

Section 4. That the City shall not de-annex, cease acquisition efforts, or subsequently rezone the Hughes Stadium property to any designation other than Public Open Lands without voter approval of a separate initiative referred to the voters by City Council.

Section 5. That this Ordinance shall take effect immediately upon passage by the majority of the voters of Fort Collins during the first available regular city election, and any registered voter in Fort Collins has legal standing to petition for injunctive and/or declaratory relief related to City noncompliance with the provisions of this Ordinance.

Section 3. That the City Council hereby amends Section 3 of Resolution 105 by submitting to the registered electors of the City at the next regular City election to be held on Tuesday, April 6, 2021, the following Ballot Measure revised as ordered by the District Court in its February 7th Order:

PROPOSED CITIZEN-INITIATED ORDINANCE

Shall the City enact an ordinance requiring the City Council of the City of Fort Collins to immediately rezone upon passage of the ordinance a 164.56-acre parcel of real property formerly home to the Hughes Stadium from the Transition District to the Public Open Lands District, and requiring the City to acquire the property at fair market value to use said property for parks, recreation, and open lands, natural areas, and wildlife rescue and restoration, and further prohibiting the City from de-annexing, ceasing acquisition efforts or subsequently rezoning the property without voter approval of a separate initiative referred to the voters by City Council, and granting legal standing to any registered elector in the City to seek injunctive and/or declaratory relief in the courts related to City noncompliance with said ordinance.

YES/FOR _____
NO/AGAINST _____

Section 4. That except as amended in this Resolution, Resolution 105 shall remain unchanged and in full force and effect.

Section 5. That by adopting this Resolution, the City Council does not intend to waive or relinquish any grounds the City has to appeal the February 3rd Order and the February 7th Order.

Passed and adopted at a regular meeting of the Council of the City of Fort Collins this 16th day of February, A.D. 2021.


Mayor

ATTEST:


City Clerk

