There will be four options for people who would like to participate in the meeting:

- Live via the Zoom online meeting,
- Live via the telephone,
- Live in Council Chambers,
- By submitting emails to Council at CityLeaders@fcgov.com.

All options will be available for those wishing to provide general public comment, as well as public comment during individual discussion items.

PUBLIC PARTICIPATION (ONLINE VIA ZOOM):

Individuals who wish to address Council via remote public participation can do so through Zoom at https://zoom.us/j/98241416497. (The link and instructions are also posted at www.fcgov.com/councilcomments.) Individuals participating in the Zoom session should watch the meeting through that site, and not via FCTV, due to the streaming delay and possible audio interference.

The Zoom meeting will be available beginning at 5:15 p.m. on the day of the meeting. Participants wanting to ensure their equipment setup is working should join prior to 6:00 p.m. For public comments, the Mayor will ask participants to click the “Raise Hand” button to indicate you would like to speak at that time. Staff will moderate the Zoom session to ensure all participants have an opportunity to address Council.

In order to participate, you must:

- Have an internet-enabled smartphone, laptop or computer. Using earphones with a microphone will greatly improve your audio experience.
- Join the Zoom meeting using the link on the front page of the agenda or on the City’s home webpage at www.fcgov.com.
- If you use the City’s home page, simply click on the “Participate remotely in Council Meeting” link shown near the top of the page.
PUBLIC PARTICIPATION (VIA PHONE):

- Dial the public participation phone number, 1-346-248-7799, and then enter the Meeting ID 982 4141 6497 followed by the pound sign (#).
- The meeting will be available beginning at 5:15 p.m. Please call in to the meeting prior to 6:00 p.m., if possible. For public comments, the Mayor will ask participants to indicate if you would like to speak at that time – phone participants will need to press *9 to do this. Staff will be moderating the Zoom session to ensure all participants have an opportunity to address Council.

When participating online or by phone, DO NOT Watch/stream FCTV at the same time due to streaming delay and possible audio interference.

PUBLIC PARTICIPATION (IN PERSON):

To participate in person, individuals should come to City Hall and be prepared to follow strict social distancing, sanitizer and facial covering guidelines.

- A limited number of individuals will be allowed in Council Chambers. Therefore, staging for individuals who wish to speak will occur in the City Hall lobby and outside (weather permitting).
- Individuals will be required to wear masks while inside City Hall and any other City buildings being utilized.
- Individuals who wish to speak will line up at one of the two podiums available in Council Chambers, maintaining physical distancing by standing on the lines marked on the floor. Facial coverings need to stay in place while speaking.
- Once a speaker has provided comments, he or she will be asked to leave Council Chambers to make room for the next speaker.

PUBLIC PARTICIPATION (VIA EMAIL):

Individuals not comfortable or able to access the Zoom platform or participate by phone are encouraged to participate by emailing general public comments to CityLeaders@fcgov.com. If you have specific comments on any of the discussion items scheduled, please make that clear in the subject line of the email and send prior to the meeting Tuesday evening.

WATCH THE MEETING

Anyone can view the Council meeting live on Channels 14 and 881 or online at www.fcgov.com/fctv. Note: Only individuals who wish to address Council should use the Zoom link or call in by phone. Anyone who wants to watch the meeting, but not address Council, should view the FCTV livestream.

Documents to Share: If residents wish to speak to a document or presentation, the City Clerk needs to be emailed those materials by 4 p.m. the day of the meeting.

Persons wishing to display presentation materials using the City’s display equipment under the Citizen Participation portion of a meeting or during discussion of any Council item must provide any such materials to the City Clerk in a form or format readily usable on the City’s display technology no later than two (2) hours prior to the beginning of the meeting at which the materials are to be presented.

NOTE: All presentation materials for appeals, addition of permitted use applications or protests related to election matters must be provided to the City Clerk no later than noon on the day of the meeting at which the item will be considered. See Council Rules of Conduct in Meetings for details.

Upon request, the City of Fort Collins will provide language access services for individuals who have limited English proficiency, or auxiliary aids and services for individuals with disabilities, to access City services, programs and activities. Contact 221-6515 (V/TDD: Dial 711 for Relay Colorado) for assistance. Please provide 48 hours advance notice when possible.

A solicitud, la Ciudad de Fort Collins proporcionará servicios de acceso a idiomas para personas que no dominan el idioma inglés, o ayudas y servicios auxiliares para personas con discapacidad, para que puedan acceder a los servicios, programas y actividades de la Ciudad. Para asistencia, llame al 221-6515 (V/TDD: Marque 711 para Relay Colorado). Por favor proporcione 48 horas de aviso previo cuando sea posible.
Proclamations and Presentations
5:45 p.m.

The Mayor will share highlights of each proclamation listed below but will not read proclamations in their entirety.

A. Proclamation Declaring September as Shift Your Ride Month.

Regular Meeting
6:00 p.m.

- PLEDGE OF ALLEGIANCE
- CALL MEETING TO ORDER
- ROLL CALL
- AGENDA REVIEW: CITY MANAGER
  - City Manager Review of Agenda.
  - Consent Calendar Review
    This Review provides an opportunity for Council and citizens to pull items from the Consent Calendar. Anyone may request an item on this calendar be “pulled” off the Consent Calendar and considered separately.
    - Council-pulled Consent Calendar items will be considered before Discussion Items.
    - Citizen-pulled Consent Calendar items will be considered after Discussion Items.
- PUBLIC COMMENT
  Individuals may comment regarding items scheduled on the Consent Calendar and items not specifically scheduled on the agenda. Comments regarding land use projects for which a development application has been filed should be submitted in the development review process** and not to the Council.
    - Those who wish to speak are asked to sign in at the table in the lobby (for recordkeeping purposes).
    - All speakers will be asked by the presiding officer to identify themselves by raising their hand, and then will be asked to move to one of the two lines of speakers (or to a seat nearby, for those who are not able to stand while waiting).
    - The presiding officer will determine and announce the length of time allowed for each speaker.
    - Each speaker will be asked to state his or her name and general address for the record, and to keep comments brief. Any written comments or materials intended for the Council should be provided to the City Clerk.
    - A timer will beep once and the timer light will turn yellow to indicate that 30 seconds of speaking time remain, and will beep again and turn red when a speaker’s time to speak has ended.
  [**For questions about the development review process or the status of any particular development, citizens should consult the Development Review Center page on the City’s website at fcgov.com/developmentreview, or contact the Development Review Center at 221-6750.]
- PUBLIC COMMENT FOLLOW-UP
The Consent Calendar is intended to allow the City Council to spend its time and energy on the important items on a lengthy agenda. Staff recommends approval of the Consent Calendar. Anyone may request an item on this calendar to be "pulled" off the Consent Calendar and considered separately. Agenda items pulled from the Consent Calendar will be considered separately under Pulled Consent Items. Items remaining on the Consent Calendar will be approved by City Council with one vote. The Consent Calendar consists of:

- Ordinances on First Reading that are routine;
- Ordinances on Second Reading that are routine;
- Those of no perceived controversy;
- Routine administrative actions.

If the presiding officer determines that the number of items pulled from the Consent Calendar by citizens is substantial and may impair the Council’s ability to complete the planned agenda, the presiding officer may declare that the following process will be used to simplify consideration of the Citizen-Pulled Consent Items:

1. All citizen-pulled items (to be listed by number) will be considered as a group under the heading “Consideration of Citizen-Pulled Consent Items.”
2. At that time, each citizen wishing to speak will be given a single chance to speak about any and all of the items that have been moved to that part of the agenda.
3. After the citizen comments, any Councilmember may specify items from the list of Citizen-Pulled Consent Items for Council to discuss and vote on individually. Excluding those specified items, Council will then adopt all “Citizen-Pulled Consent Items” as a block, by a single motion, second and vote.
4. Any Citizen-Pulled Consent Items that a Councilmember has asked to be considered individually will then be considered using the regular process for considering discussion items.

1. **Consideration and Approval of the Minutes of the July 21, 2020 and August 4, 2020 Regular Council Meeting.**

   The purpose of this item is to approve the minutes from the July 21, 2020 and August 4, 2020 Regular Council Meetings.

2. **Second Reading of Ordinance No. 102, 2020, Appropriating Unanticipated Department of Justice Coronavirus Emergency Grant Revenue in the General Fund for Police Services.**

   This Ordinance, unanimously adopted on First Reading on August 18, 2020, appropriates funds awarded by the Department of Justice (DOJ) for the formula grant FY 2020 Coronavirus Emergency Supplemental Funding Grant. This grant award of $100,818 will defray certain expenses the City has incurred responding to the COVID-19 Pandemic, which includes the purchase of personal protective equipment, cleaning supplies, and communication expenses along with overtime associated with the response.

3. **Second Reading of Ordinance No. 103, 2020, Appropriating Unanticipated Philanthropic Revenue Received by City Give from The Friends of the Gardens on Spring Creek for Transfer to The Gardens on Spring Creek.**

   This Ordinance, which was unanimously adopted on First Reading on August 18, 2020, appropriates $75,000 in philanthropic revenue in the General Fund for transfer to The Gardens on Spring Creek to support general operating costs as designated by the donor, The Friends of the Gardens on Spring Creek. The Friends of the Gardens on Spring Creek is an independent not-for-profit 501(c)(3) organization established in 1988 whose mission is to support The Gardens through advocacy, community engagement, volunteerism and fundraising.
4. Second Reading of Ordinance No. 104, 2020, Appropriating Unanticipated Philanthropic Revenue Received by City Give from the Urban Agriculture Resilience Program through The Friends of the Gardens on Spring Creek for The Gardens on Spring Creek.

This Ordinance, unanimously adopted on First Reading on August 18, 2020, appropriates $15,000 in philanthropic revenue in the General Fund for transfer to The Gardens on Spring Creek. Facilitated by The Friends of the Gardens on Spring Creek, the funding award is made from the Urban Agriculture Resilience Program for the designated purpose of urban agriculture and community gardening.

5. Second Reading of Ordinance No. 105, 2020, Appropriating Unanticipated Philanthropic Revenue Received by City Give for Transfer to the Recreation Fund for the Fort Collins Senior Center.

This Ordinance, unanimously adopted on First Reading on August 18, 2020, appropriates $66,652 in philanthropic revenue in the General Fund for transfer to the City of Fort Collins Senior Center in the Recreation Fund for support of general operations. The charitable funds are the disbursement of revenue from a Designated Endowment held by the Community Foundation of Northern Colorado to benefit the Fort Collins Senior Center.

6. Second Reading of Ordinance No. 106, 2020, Authorizing the Acquisition by Eminent Domain Proceedings of Certain Lands Necessary to Construct Public Improvements for the Timberline Capital Improvement Project - Stetson Creek Road to Trilby Road.

This Ordinance, which was unanimously adopted on First Reading on August 18, 2020, requests Council authorization for the use of eminent domain, if deemed necessary, to acquire property interests needed for construction improvements for the Project.

7. First Reading of Ordinance No. 107, 2020, Appropriating Unanticipated Philanthropic Revenue Received by City Give for Transfer to Social Sustainability in the General Fund for the Equity Indicators Project.

The purpose of this item is to appropriate $20,000 in philanthropic revenue in the General Fund for transfer to Social Sustainability for the support of the Equity Indicators project as designated by the donor, Bohemian Foundation. In a commitment to advance equitable outcomes, the City has selected CUNY Institute for State and Local Governance (ISLG) to lead an Equity Indicators project which will establish a framework for measuring and understanding the inequities that exist in Fort Collins.


The purpose of this item is to adopt changes to City Code to align with requirements in the 2020-2025 LEAP Vendor Agreement. Under current billing practices, utility bills are treated as a single customer account payment balance, and payments made to an account are applied equally across utility service products on that account. The Code changes will allow for Low-Income Energy Assistance Program (LEAP) payments to be applied only to electric service (as required in the 2020-2025 LEAP Vendor Agreement), even if a customer has other Fort Collins utility services (e.g., water, wastewater, stormwater and/or broadband).

These Code changes will enable Fort Collins Utilities to remain a LEAP Vendor which benefits the 200+ income-qualified customers that receive LEAP in two ways: (1) they get a more accurate benefit amount because Fort Collins Utilities is able to provide Estimated Home Heating Costs (EHHC) from which LEAP bases benefit calculations, and (2) it is more convenient for the customer because LEAP payments are automatically applied to a customer’s utility account.


The purpose of this item is to consider proposed amendments to the City’s election campaign Code provisions.

The purpose of this item is to set two public hearing dates for the proposed 2021 budget that the City Manager has filed with the City Clerk pursuant to Section 2 of City Charter Article V. Section 3 of City Charter Article V now requires Council to set a date for a public hearing on the proposed budget and to cause notice of the hearing to be published. This Resolution sets two public hearing dates. The first for Council’s regular meeting on September 15, 2020, and the second for its regular meeting on October 6, 2020. The Resolution also directs the City Clerk to publish the notice of these two hearings that is attached as Exhibit “A” to the Resolution.


The purpose of this item is to appoint four individuals to fill vacancies on the Affordable Housing Board, Landmark Preservation Commission, Human Relations Board and the Economic Advisory Board that exist due to the resignation of previous members.

END CONSENT

● CONSENT CALENDAR FOLLOW-UP

This is an opportunity for Councilmembers to comment on items adopted or approved on the Consent Calendar.

● STAFF REPORTS

A. Staff Report: COVID-19 Update - Discuss women in the workforce related to COVID-19, school choice, and childcare. (Josh Birks)

● COUNCILMEMBER REPORTS

● CONSIDERATION OF COUNCIL-PULLED CONSENT ITEMS

Discussion Items

The method of debate for discussion items is as follows:

● Mayor introduces the item number, and subject; asks if formal presentation will be made by staff
● Staff presentation (optional)
● Mayor requests citizen comment on the item (three minute limit for each citizen)
● Council questions of staff on the item
● Council motion on the item
● Council discussion
● Final Council comments
● Council vote on the item

Note: Time limits for individual agenda items may be revised, at the discretion of the Mayor, to ensure all citizens have an opportunity to speak. If attending in person, please sign in at the table in the back of the room. The timer will buzz when there are 30 seconds left and the light will turn yellow. It will buzz again at the end of the speaker’s time.
12. Emergency Ordinance No. 110, 2020 Suspending Certain Provisions of the City's Land Use Code to Permit Temporary Use of the Property at 1301 Blue Spruce Drive as a Homeless Shelter. (staff: Beth Sowder, Ingrid Decker; 5 minute presentation; 30 minute discussion)

The purpose of this item is for Council to consider approving an emergency ordinance to allow a temporary overnight shelter at 1301 Blue Spruce Drive. The number of shelter beds available in Fort Collins has been reduced due to the need for social distancing because of COVID-19. While homeless shelters are a permitted use in the Industrial Zone District where this property is located, this would allow the use to occur immediately rather than undergoing the development review process for the proposed change in use. Emergency ordinances are authorized under the Charter in emergency circumstances and require the affirmative vote of at least five (5) members of the Council for passage.


The purpose of this item is to discuss the proposed adoption of an Ordinance to require remote sellers to collect and remit City sales tax. The Ordinance is based on a model ordinance prepared by a working group of municipal attorneys and municipal finance staff, coordinated by the Colorado Municipal League (CML). With adoption of the Ordinance, the City Manager will enter into an agreement with the Colorado Department of Revenue to allow such taxpayers to remit tax to the City using the Department’s single point of remittance software.


The purpose of this item is to consider proposed amendments to the City’s election campaign Code provisions.

- CONSIDERATION OF CITIZEN-PULLED CONSENT ITEMS

- OTHER BUSINESS

A. Consideration of a motion to adjourn the City Council meeting to conduct the General Improvement District No. 1 meeting then return to the regular City Council meeting.

“I move that Council temporarily adjourn this regular meeting to conduct the General Improvement District No. 1 Board meeting, to be resumed later this evening upon the completion of that GID Board meeting.”

B. 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.)

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

“I move that the City Council go into executive session for the purpose of discussing the Hughes Stadium property with City staff and the City’s attorneys, and particularly to discuss:

1. Real property acquisition and disposition related to the Hughes Stadium property, as permitted under:
   - City Charter Article Roman Numeral Two, Section 11(3),
   - Section 2-31(a)(3) of the City Code and
   - Colorado Revised Statutes Section 24-6-402(4)(a); and
2. Specific legal questions related to potential litigation regarding the Hughes Stadium property and the manner in which the particular policies, practices or regulations of the City related to the acquisition or development of the Hughes Stadium property may be affected by existing or proposed provisions of federal, state or local law, as permitted under:
   - 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).”

• ADJOURNMENT

Every Council meeting will end no later than 10:30 p.m., except that: (1) any item of business commenced before 10:30 p.m. may be concluded before the meeting is adjourned and (2) the City Council may, by majority vote, extend a meeting until no later than 12:00 a.m. for the purpose of considering additional items of business. Any matter which has been commenced and is still pending at the conclusion of the Council meeting, and all matters scheduled for consideration at the meeting which have not yet been considered by the Council, will be continued to the next regular Council meeting and will be placed first on the discussion agenda for such meeting.
WHEREAS, Fort Collins has been routinely recognized as one of the best cities for bicycling in the United States, ranked by the League of American Bicyclists as one of just five Platinum Bicycle Friendly Community since 2013; and

WHEREAS, Colorado State University is also ranked as one of five nation-wide Platinum Bicycle Friendly Universities; and

WHEREAS, all three Platinum designed Bicycle Friendly Businesses in Colorado, as well as the most designated Bicycle Friendly Businesses in the nation are Fort Collins businesses; and

WHEREAS, there has been a need to promote and encourage alternative transportation beyond bicycles to reach climate, equity and other municipal goals; and

WHEREAS, the global COVID-19 pandemic has impacted daily life for thousands of Fort Collins residents; and

WHEREAS, innovative partnerships have formed within the municipal organization to address pressing needs like climate action and racial justice; and

WHEREAS, the City’s Shift climate program indicated a need to focus on alternative transportation strategies in 2020, thereby launching Shift Your Ride Month, a month-long initiative with the goal of engaging 1,500 community members in the Shift Your Ride Program.

NOW, THEREFORE, I, Wade Troxell, Mayor of the City of Fort Collins, do hereby proclaim the month of September 2020 as

SHIFT YOUR RIDE MONTH

in Fort Collins and I encourage citizens to try bicycling, walking, scooting, rolling and transit use as a sensible mode of transportation or recreation and to participate in the many events planned for the summer months, particularly, Bike to Wherever Day on September 22, 2020.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the City of Fort Collins this first day of September, 2020.

____________________________________
Mayor

ATTEST:

_________________________________
City Clerk
AGENDA ITEM SUMMARY
City Council

September 1, 2020

STAFF

Delynn Coldiron, City Clerk

SUBJECT

Consideration and Approval of the Minutes of the July 21, 2020 and August 4, 2020 Regular Council Meetings.

EXECUTIVE SUMMARY

The purpose of this item is to approve the minutes from the July 21, 2020 and August 4, 2020 Regular Council Meetings.

ATTACHMENTS

1. July 21, 2020 (PDF)
2. August 4, 2020 (PDF)
July 21, 2020

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 has been conducted using a hybrid approach allowing in-person participation with strict protocols and a variety of remote participation options.)

• ROLL CALL

PRESENT: Pignataro, Gorgol, Gutowsky, Summers (remote), Stephens (remote), Troxell, Cunniff

Staff Present: Atteberry, Daggett, Coldiron

• AGENDA REVIEW: CITY MANAGER

Mayor Troxell outlined the public participation options.

City Manager Atteberry stated there were no changes to the published agenda; however, the discussion with President McConnell and President Dorsey may be moved to the beginning of the agenda.

• STAFF REPORTS

A. COVID-19 Update: Educational Institutions and the Pandemic - Presenters: Colorado State University President, Joyce McConnell and Front Range Community College President, Andrew Dorsey

City Manager Atteberry introduced Colorado State University President, Joyce McConnell and Front Range Community College President, Andrew Dorsey.

President McConnell discussed the decision to have students not return to campus after spring break and the subsequent need to convert courses to an online format. There was a tremendous effort made to ensure individuals who needed laptop computers had them. Additionally, some residence halls were left open for those students who were not able to go home or have optimal areas in which to study.

President McConnell discussed the University's pandemic preparedness team of campus experts who are deciding how in-person learning will resume. She discussed the guiding principles for reopening and budgeting including health and safety, fairness and equity, adherence to the land grant mission, rapid decision-making with inclusive input, student access, affordability, and success, operational continuity beyond COVID-19, and protection of as many jobs as possible.

President McConnell discussed the budget impacts of COVID-19 and noted there are significant additional teaching costs associated with online education. She outlined the plan for COVID testing, symptom reporting, and contact tracing. In addition, wastewater will be screened and tested for viral load information.

President McConnell discussed the plan for reopening the campus in the fall including adding class sections, expanding class hours, and adding instructors.
President Dorsey discussed the Front Range Community College student population and the shift to online education in the spring. He detailed the plans for reopening certain classes in the fall to allow for social distancing requirements to be met and discussed fall plans for online courses.

Mayor Troxell commended the work of both organizations.

Mayor Pro Tem Stephens thanked Presidents McConnell and Dorsey for their presentations and hard work. She commended the work of both organizations around equity, food insecurity, and mental health. She asked what type of work is being done related to COVID-19 education for incoming students. President McConnell replied that while it will be impossible to control each student off campus, staff will be firm and hold students accountable regarding on-campus mask wearing, symptom checking, and contact tracing. Additionally, there is a social norming campaign making expectations clear that will be launched before students arrive and students will be subject to misconduct or disciplinary protocols if they do not comply with official policies.

Mayor Pro Tem Stephens commented on the need to de-politicize mask wearing. President McConnell stated the University views mask wearing not as political but as a best practice for health reasons.

Councilmember Gorgol asked if CSU is tracking where students are coming from and their off-campus activities. President McConnell replied the registrar is working to track where students are coming from to gain information about the rate of transmission in those communities and so immediate testing and subsequent quarantining can occur if necessary.

Councilmember Gorgol asked how the University is working through wireless connectivity access for all students. President McConnell replied both organizations are working through those issues and both have active food bank programs. She stated funds have been raised by both organizations to ensure technology has been available for all students.

President Dorsey noted part of the goal of keeping campuses open is to do so for students who need that access.

Councilmember Pignataro asked if the nursing program at Front Range has changed at all in response to COVID-19. President Dorsey replied clinical training was not possible in the spring as most hospitals suspended voluntary procedures to clear space for COVID-19 patients; therefore, much of the nursing program reverted to simulation experiences. The hope is for clinical placements to resume in the fall.

Councilmember Gutowsky asked how lab classes will be addressed at CSU. President McConnell replied all clinical and laboratory experiences have been prioritized and sections have been added to maintain social distancing.

Councilmember Gutowsky asked if the recreation center will be open. President McConnell replied that will be dependent on County guidelines and they are not currently allowed to be open.

Councilmember Gutowsky asked how the library will be navigated. President McConnell replied the library dean has an excellent plan around physical distancing and utilizing the space creatively.
Councilmember Gutowsky asked how fraternities and sororities will function. President McConnell replied it is dependent on County health orders and there will be creative approaches necessary for rush and pledging.

Mayor Troxell suggested community welcome and party registration could be tools used for education. Marcy Yoder, Neighborhood Services Manager, replied the community welcome event will be converted into a week-long event with small teams delivering door hangers that will identify a video link. Party registration is currently on hold based on the fact that gatherings should not be occurring.

City Manager Atteberry thanked Presidents McConnell and Dorsey for their partnership.

**PUBLIC COMMENT**

Rich Stave asked if there is a plan for having enough hospital beds if COVID-19 cases explode. He asked if there is a plan to address the lack of current registrations for vehicles, how buses are being cleaned, particularly given students returning, and questioned work being done in his neighborhood.

Jason Knebel questioned the recent Ethics Review Board decisions that found a conflict regarding Councilmember Gorgol's work with La Familia but not with Mayor Troxell's employment at CSU. He asked what the Council would do to protect citizen rights should federal troops be deployed here as they have been in Portland. He also suggested citizens should receive the same amount of time to address Council as did CSU's President.

Rory Heath suggested items that may garner more public input be placed earlier in the agenda and requested Mayor Troxell and Mayor Pro Tem Stephens recuse themselves from the discussion of Item No. 22, Council Consideration of Whether to Authorize By Motion Remote Hearings for Various Zoning, Development and Historic Preservation Items.

Kim Medina thanked Council for considering the landmark designation contained in Item No. 6, First Reading of Ordinance No. 089, 2020, Designating the Lois Struble Property, 129 North McKinley Avenue, Fort Collins, Colorado, as a Fort Collins Landmark Pursuant to Chapter 14 of the Code of the City of Fort Collins.

Yuday Visnar discussed two projects at Taft Hill and Trilby Roads, the wasteshed and the behavioral health facility. Neighbors were never consulted about either of these projects and noted there is a lack of public transportation in the area which will therefore increase vehicle miles travelled and pollution in the area.

Leena (no last name given) stated the community still must acknowledge the fact that Black Lives Matter and urged Council to create meaningful and concrete policy changes related to that.

**PUBLIC COMMENT FOLLOW-UP**

Mayor Troxell summarized the citizen comments noting the City has expressed concern to County Commissioners regarding co-location of the behavioral health facility on the wasteshed site.

Regarding Leena's comments, Councilmember Pignataro stated the Community Impact Committee has met and information is available on the City's website. The Ethics Review Board has yet to come to a conclusion on Councilmember Gorgol's potential conflicts of interest.
regarding her employer and stated there will be information provided on the different situations if a conflict is found. She requested information on the hospital overflow at the Budweiser Events Center. City Manager Atteberry replied that facility is available if necessary.

Councilmember Cunniff asked what options the City has to express disapproval of the federal government taking over local policing issues as it has in Portland. City Attorney Daggett replied Council could ask staff to bring forward a resolution to formally express a reaction. She noted the Legislative Policy Agenda may not go into these types of issues; however, Council could provide that direction.

Councilmember Summers stated the Budweiser Events Center currently has 200 overflow hospital beds with ability to expand to 1,000. He stated there are currently 12 COVID patients in county hospitals. Regarding the issue brought up by Councilmember Cunniff, Council should focus on Fort Collins and he would welcome federal government aid if there is not adequate local law enforcement to prevent radical individuals from damaging government buildings. Additionally, the federal law enforcement officers in Portland are protecting federal buildings.

Mayor Pro Tem Stephens discussed the concerns related to traffic along Trilby Road and stated she will continue to work on those issues. Many people do not feel federal law enforcement participation in local law issues is constitutional and it is valid to bring forth concerns about something similar happening here.

**CONSENT CALENDAR**

Mayor Troxell indicated there are public hearings for Item Nos. 6, First Reading of Ordinance No. 089, 2020, Designating the Lois Struble Property, 129 North McKinley Avenue, Fort Collins, Colorado, as a Fort Collins Landmark Pursuant to Chapter 14 of the Code of the City of Fort Collins, 7, First Reading of Ordinance No. 090, 2020, Designating the Woods-Gilkison-Dunn Property, 331 South Loomis Avenue, Fort Collins, Colorado, as a Fort Collins Landmark Pursuant to Chapter 14 of the Code of the City of Fort Collins, 8, First Reading of Ordinance No. 091, 2020, Designating the Benton-Schultz Duplex Property, 1016-1018 Morgan Street, Fort Collins, Colorado, as a Fort Collins Landmark Pursuant to Chapter 14 of the Code of the City of Fort Collins, 9, First Reading of Ordinance No. 092, 2020, Designating the Brawner-McArthur Property, 228 Whedbee Street, Fort Collins, Colorado, as a Fort Collins Landmark Pursuant to Chapter 14 of the Code of the City of Fort Collins, and 13, Public Hearing and Resolution 2020-063 Adopting the 2020-2024 Five-Year Consolidated Plan Required by the U.S. Department of Housing and Urban Development.

Councilmember Gutowsky withdrew Item Nos. 7, First Reading of Ordinance No. 090, 2020, Designating the Woods-Gilkison-Dunn Property, 331 South Loomis Avenue, Fort Collins, Colorado, as a Fort Collins Landmark Pursuant to Chapter 14 of the Code of the City of Fort Collins, No. 8, First Reading of Ordinance No. 091, 2020, Designating the Benton-Schultz Duplex Property, 1016-1018 Morgan Street, Fort Collins, Colorado, as a Fort Collins Landmark Pursuant to Chapter 14 of the Code of the City of Fort Collins, and No. 9, First Reading of Ordinance No. 092, 2020, Designating the Brawner-McArthur Property, 228 Whedbee Street, Fort Collins, Colorado, as a Fort Collins Landmark Pursuant to Chapter 14 of the Code of the City of Fort Collins from the Consent Agenda.

Mayor Pro Tem Stephens made a motion, seconded by Councilmember Gutowsky, to adopt and approve all items not withdrawn from the Consent Agenda.
RESULT: ADOPTED [UNANIMOUS]
MOVER: Kristin Stephens, District 4
SECONDER: Susan Gutowsky, District 1
AYES: Pignataro, Gorgol, Gutowsky, Summers, Stephens, Troxell, Cunniff

1. **Consideration and Approval of the Minutes of the June 2 and June 16, 2020 Regular Council Meetings, the June 9 and June 23, 2020 Adjourned Council Meetings and the July 14, 2020 Special Meeting. (Adopted)**

The purpose of this item is to approve the minutes from the June 2 and June 16, 2020 Regular Council meetings, the June 9 and June 23, 2020 Adjourned Council meetings and the July 14, 2020 Special Meeting.

2. **First Reading of Ordinance No. 085, 2020, 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 (CDNS). A grant in the amount of $67,612 has been received from the Colorado Division of Criminal Justice (DCJ) Juvenile Diversion fund for the continued operation of Restorative Justice Services, which includes the RESTORE program for shoplifting offenses, and the Restorative Justice Conferencing Program (RJCP) and Reflect Program for all other offenses. No match is required. The grant period is July 1, 2020 to June 30, 2021.

3. **First Reading of Ordinance No. 086, 2020, Making a Supplemental Appropriation in Support of the Epic Homes Program for the Indoor Environmental Quality Study by Colorado State University. (Adopted)**

The purpose of this item is to appropriate $37,000 in grant funds from Bloomberg Philanthropies, as part of the Bloomberg Mayors Challenge, from the Fort Collins Utilities Light and Power Fund to be expended to pay a sub-grant to Colorado State University (CSU) for the indoor environmental quality (IEQ) study of Utilities’ Epic Homes Program. It also authorizes and approves the Services Agreement the City and CSU have entered into for the IEQ Study. The Bloomberg Philanthropies funds come from the second tranche of the 2020 grant installment.

This item is presented to Council because the appropriation of these grant funds is necessary to enable Utilities, in collaboration with CSU, to move forward with the IEQ study for the Bloomberg Mayors Challenge grant project (the Epic Homes program). Epic Homes is a streamlined, affordable approach for single-family home and rental property energy efficiency upgrades to improve comfort, health and efficiency in Fort Collins.

The City Manager recommends this appropriation and has determined that the funds are available and previously unappropriated from the Light and Power Fund and will not cause the total amount appropriated in the Light and Power Fund to exceed the current estimate of actual and anticipated revenues to be received in that fund during this year.

4. **First Reading of Ordinance No. 087, 2020, Appropriating Unanticipated Philanthropic Revenue Received by City Give for the Poudre Fire Authority and City Joint Project to Construct the 9/11 Memorial Park. (Adopted)**

The purpose of this item is to appropriate $75,200 in philanthropic revenue in the General Fund for transfer to Park Planning & Development. The funds represent cumulative giving from multiple donors and the gifts are designated by the donors for the stated support of the 9/11 Memorial Park.

The purpose of this item is to appropriate $15,588 in grant funding received from the State Historical Fund, awarded by History Colorado. This grant requires a City match of $6,000 which was appropriated and unexpended in the 2020 budget. The grant funds a historic context report of local architect William “Bill” Robb and the projects he and his firm, now known as RB+B, designed in Fort Collins. Notable projects of Robb’s include the 1957 Municipal Building (Operations Services building), Key Bank at Drake and College, several churches, local residences and many schools for the Poudre R-1 School District.

6. **First Reading of Ordinance No. 089, 2020, Designating the Lois Struble Property, 129 North McKinley Avenue, Fort Collins, Colorado, as a Fort Collins Landmark Pursuant to Chapter 14 of the Code of the City of Fort Collins.** (Adopted)

This item is a quasi-judicial matter and if it is considered on the discussion agenda, it will be considered in accordance with Section 1(f) of the Council’s Rules of Meeting Procedures adopted in Resolution 2019-064.

The purpose of this item is to designate the Lois Struble Property located at 129 North McKinley Avenue as a Fort Collins Landmark. The owners of this property, Kimberly Medina and Ramon Aguilera, are initiating this request. The duplex is eligible for recognition as a Landmark due to its significance to Fort Collins under Designation Standard 3, Design/Construction and their historic integrity.

7. **First Reading of Ordinance No. 093, 2020, Authorizing the Conveyance of a Permanent Stormwater Easement on the Southridge Golf Course to 6015 Timberline, LLC and Approving Related Maintenance Obligations.** (Adopted)

The purpose of this item is to authorize the conveyance of a stormwater easement on City-owned real property located at Southridge Golf Course at 5750 South Lemay Avenue for the benefit of the Rennat Subdivision owned by 6015 Timberline, LLC.

8. **Resolution 2020-061 Determining Fair Value for the Lease of Property Owned by the Downtown Development Authority in Connection with the 140 East Oak Street Affordable Housing Project.** (Adopted)

The purpose of this item is for Council to determine fair value for a 99-year lease the Downtown Development Authority (DDA) is planning to enter into with Housing Catalyst for the purpose of developing DDA property at 140 East Oak Street. The site plan for the project includes 79 affordable rental units, which will be a mix of one- and two-bedroom apartments that serve individuals and households whose earnings range from 30-80% AMI (area median income) with the target of an overall average of 60% AMI. This item aligns with the Council Priority of Affordable and Achievable Housing Strategies and is a partnership between the DDA and Housing Catalyst.

9. **Resolution 2020-062 Approving the 2020 Certification to the Larimer County Assessor Pursuant to Colorado Revised Statutes Section 31-25-807(3)(a)(IV)(B) for the Downtown Development Authority Property Tax Increment.** (Adopted)

The purpose of this item is to certify to the Larimer County Assessor the percentages of property tax distributions to be allocated for the Downtown Development Authority by the Assessor as tax increment from the 2020 property taxes payable in 2021 to the City and to all other affected taxing entities.
10. **Public Hearing and Resolution 2020-063 Adopting the 2020-2024 Five-Year Consolidated Plan Required by the U.S. Department of Housing and Urban Development.** (Adopted)

   The purpose of this item is to hold a public hearing and consider adoption of the 2020-2024 Five-Year Consolidated Plan which is a document required by the Department of Housing and Urban Development (HUD) in order for the City to remain eligible for federal grants, including the Community Development Block Grant (CDBG) and the Home Investment Partnership (HOME) Program.

11. **Resolution 2020-065 Supporting the Grant Application by the Natural Areas Department for the Timnath Inlet Fish Passage Project to the United States Department of the Interior, Bureau of Reclamation’s WaterSMART Drought Resiliency Program and Authorizing the City Manager to Execute Agreements Regarding Such a Grant.** (Adopted)

   The purpose of this item is to adopt a resolution supporting the Timnath Inlet Fish Passage Project and the City’s related grant application to the Bureau of Reclamation’s (BOR) WaterSMART Drought Resiliency Program. The Bureau is requesting the resolution from grant applicants to ensure that the applicants are willing and able to financially participate, enter into an agreement, and meet the required deadlines if the grant is awarded.

12. **Resolution 2020-064 Approving the Recommendation of the Northern Colorado Regional Airport Commission Regarding Use of the CARES Act Grant Funding and Authorizing the City Manager to Execute Grant Agreements with the Federal Aviation Administration for Such Grant Funding.** (Adopted)

   The purpose of this item is to authorize the City Manager to accept federal funding on behalf of the City, joint owner of the Northern Colorado Regional Airport, that will assist the Airport in maintaining safety and security for operations and investment in capital infrastructure needs. This federal funding is a four-year ongoing grant resource that will not require an additional appropriation in 2020. Future Airport budgets will include appropriations for expenditure of these federal funds.

   These funds do not require any local grant match and are available to keep the Airport in a safe and reliable state of operational readiness to serve aviation demands, the traveling public, and support the economy, in addition to keeping Airport and aviation workers employed and Airport credit ratings stable. The funds were provided through a Federal Aviation Administration-based distribution on an allocation formula within the Coronavirus Aid, Relief, and Economic Security Act, Public Law 116-136.

   Acceptance of this funding allows for the Airport to continue supporting normal operations, maintaining safety and security requirements challenges due to financial impacts from the COVID-19 pandemic, in addition to investing in high priority projects that enhance the local economy by creating jobs and other economic impacts. The funding covers gaps for the next four years as a result of the COVID-19 pandemic and ensures the continuation of self-funded Airport operations.

13. **Resolution 2020-066 Appointing Michelle R. Kline as an Assistant Municipal Judge of the Fort Collins Municipal Court and Authorizing the Execution of an Employment Agreement.** (Adopted)

   The purpose of this item is to appoint Michelle R. Kline as an Assistant Municipal Judge for the Fort Collins Municipal Court. The City Charter provides for the appointment of judges of the Municipal Court for two (2) year terms. Chief Judge Jill A. Hueser recommends that Ms. Kline be appointed as a third Assistant Municipal Judge, to serve in the absence of the Chief Judge.

14. **Resolution 2020-067 Making Appointments to the Citizen Review Board.** (Adopted)

   The purpose of this item is to appoint individuals to fill vacancies on the Citizen Review Board that exist due to the resignation of previous board members.
• CONSENT CALENDAR FOLLOW-UP

Councilmember Cunniff expressed support for Item No. 14, **Resolution 2020-065 Supporting the Grant Application by the Natural Areas Department for the Timnath Inlet Fish Passage Project to the United States Department of the Interior, Bureau of Reclamation’s WaterSMART Drought Resiliency Program and Authorizing the City Manager to Execute Agreements Regarding Such a Grant.** He noted an individual is being appointed to the Citizen Review Board, which will bring the Board to full capacity to provide oversight of police officers as needed.

Mayor Troxell discussed Item No. 15, **Resolution 2020-064 Approving the Recommendation of the Northern Colorado Regional Airport Commission Regarding Use of the CARES Act Grant Funding and Authorizing the City Manager to Execute Grant Agreements with the Federal Aviation Administration for Such Grant Funding,** and stated the Commission is being very diligent in using the funds to improve the facility.

Mayor Pro Tem Stephens discussed Item No. 11, **Resolution 2020-061 Determining Fair Value for the Lease of Property Owned by the Downtown Development Authority in Connection with the 140 East Oak Street Affordable Housing Project** and commended the project on bringing affordable housing units to the downtown area. She also commented on Item No. 4, **First Reading of Ordinance No. 087, 2020, Appropriating Unanticipated Philanthropic Revenue Received by City Give for the Poudre Fire Authority and City Joint Project to Construct the 9/11 Memorial Park** and thanked the project donors.

• COUNCILMEMBER REPORTS

Councilmember Pignataro reported on her volunteer/listening session which was a cleanup at Golden Meadows Park. She will be a guest at Representative Kathy Kipp's 'driveway hours' on August 4th.

Councilmember Gorgol reported she and Councilmember Gutowsky have been meeting with the Poudre School District and the County to discuss internet connectivity issues for students and the District has been able to secure 1,600 MiFi mobile hot spots for students who do not have internet access. The next Community Impact Committee meeting will be July 29th and will be broadcast online.

Councilmember Summers reported on a gathering at the Police Services building in support of officers.

Mayor Pro Tem Stephens reported on the Larimer County Suicide Prevention Symposium.

• CONSIDERATION OF COUNCIL-PULLED CONSENT ITEMS

15. **First Reading of Ordinance No. 090, 2020, Designating the Woods-Gilkison-Dunn Property, 331 South Loomis Avenue, Fort Collins, Colorado, as a Fort Collins Landmark Pursuant to Chapter 14 of the Code of the City of Fort Collins.** (Adopted on First Reading)

*This item is a quasi-judicial matter and if it is considered on the discussion agenda, it will be considered in accordance with Section 1(f) of the Council’s Rules of Meeting Procedures adopted in Resolution 2019-064.*
The purpose of this item is to designate the Woods-Gilkison-Dunn Property located at 331 S. Loomis Avenue as a Fort Collins Landmark. The property is eligible for recognition as a Landmark due to its significance to Fort Collins under Designation Standard 3, Design/Construction and their historic integrity. The property is owned by Housing Catalyst, which is seeking Landmark designation to resolve federal compliance requirements with the State Office of Archaeology and Historic Preservation under the National Historic Preservation Act. Landmarking will facilitate the intended sale of the properties out of the Housing Catalyst inventory.

Councilmember Gutowsky indicated these three were pulled to receive clarification related to the Landmark designation being sought to resolve federal compliance requirements with the State Office of Archaeology and Historic Preservation under the National Historic Preservation Act.

Rich Stave stated these items seem to involve two separate transactions, one to Landmark and one to sell, and asked if they can be separated to better understand the financial incentive to Landmark properties then sell them. Jim Bertolini, Historic Preservation Planner, replied Housing Catalyst receives a great deal of federal funding for its operations and is therefore required to comply with a host of federal laws including the National Historic Preservation Act. Landmark designation is a more agile response to allow Housing Catalyst to move these properties out of their inventory which is why the designation and sale are coupled as part of the same action.

Councilmember Cunniff suggested further analysis could be completed prior to Second Reading.

Mayor Pro Tem Stephens made a motion, seconded by Councilmember Gorgol, to adopt Ordinance No. 090, 2020, on First Reading.

Councilmember Cunniff requested information prior to Second Reading on what advantages Landmark preservation provides a landowner and information from Housing Catalyst on how those advantages help with property sales.

Mayor Troxell requested a formal response prior to Second Reading from the Landmark Preservation Commission as well.

RESULT: ORDINANCE NO. 90, 2020, ADOPTED ON FIRST READING [UNANIMOUS]
MOVER: Kristin Stephens, District 4
SECONDER: Emily Gorgol, District 6
AYES: Pignataro, Gorgol, Gutowsky, Summers, Stephens, Troxell, Cunniff

16. First Reading of Ordinance No. 091, 2020, Designating the Benton-Schultz Duplex Property, 1016-1018 Morgan Street, Fort Collins, Colorado, as a Fort Collins Landmark Pursuant to Chapter 14 of the Code of the City of Fort Collins. (Adopted)

This item is a quasi-judicial matter and if it is considered on the discussion agenda, it will be considered in accordance with Section 1(f) of the Council’s Rules of Meeting Procedures adopted in Resolution 2019-064.

The purpose of this item is to designate the Benton-Schultz Duplex located at 1016-1018 Morgan Street as a Fort Collins Landmark. The property is eligible for recognition as a Landmark due to its significance to Fort Collins under Designation Standard 3, Design/Construction and their historic integrity. The property is owned by Housing Catalyst, which is seeking Landmark designation to resolve federal compliance requirements with the State Office of Archaeology and Historic Preservation under the National Historic Preservation Act. Landmarking will facilitate the intended sale of the properties out of the Housing Catalyst inventory.
Kristin Fritz, Housing Catalyst, stated the properties owned by Housing Catalyst as public housing must go through a Section 18 disposition process as Housing Catalyst is going through the process of repositioning its public housing portfolio. These three properties are being sold to Elevations Land Trust for affordable home ownership and part of that process triggers an environmental review. The state’s Housing Preservation Office determined the properties were considered somewhat protected when they were owned by a public housing authority. When sold, that protection would go away and would have an adverse impact. The recommended mitigation is to have the properties designated as Landmarks prior to sale so they remain protected as historic resources. This strategy has been utilized previously.

Mayor Pro Tem Stephens made a motion, seconded by Councilmember Gorgol, to adopt Ordinance No. 091, 2020, on First Reading.

| RESULT: | ORDINANCE NO. 091, 2020 ADOPTED ON FIRST READING [UNANIMOUS] |
| MOVES:  | Kristin Stephens, District 4 |
| SECONDER: | Emily Gorgol, District 6 |
| AYES: | Pignataro, Gorgol, Gutowsky, Summers, Stephens, Troxell, Cunniff |

17. First Reading of Ordinance No. 092, 2020, Designating the Brawner-McArthur Property, 228 Whedbee Street, Fort Collins, Colorado, as a Fort Collins Landmark Pursuant to Chapter 14 of the Code of the City of Fort Collins. (Adopted on First Reading)

This item is a quasi-judicial matter and if it is considered on the discussion agenda, it will be considered in accordance with Section 1(f) of the Council’s Rules of Meeting Procedures adopted in Resolution 2019-064.

The purpose of this item is to designate the Brawner-McArthur Property located at 228 Whedbee Street as a Fort Collins Landmark. The property is eligible for recognition as a Landmark due to its significance to Fort Collins under Designation Standard 3, Design/Construction and their historic integrity. The property is owned by Housing Catalyst, which is seeking Landmark designation to resolve federal compliance requirements with the State Office of Archaeology and Historic Preservation under the National Historic Preservation Act. Landmarking will facilitate the intended sale of the properties out of the Housing Catalyst inventory.


| RESULT: | ORDINANCE NO. 092, 2020 ADOPTED ON FIRST READING [UNANIMOUS] |
| MOVES:  | Kristin Stephens, District 4 |
| SECONDER: | Emily Gorgol, District 6 |
| AYES: | Pignataro, Gorgol, Gutowsky, Summers, Stephens, Troxell, Cunniff |

(Secretary's Note: The Council took a brief recess at this point in the meeting.)
18. **Items Relating to the Completion of the 2020 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. 081, 2020, Appropriating Unanticipated Revenue in the Community Development Block Grant Fund.**

B. **Second Reading of Ordinance No.082, 2020, Appropriating Unanticipated Revenue in the HOME Investment Partnerships Fund.**

These Ordinances, adopted on First Reading on June 16, 2020 by a vote of 6-0 (Gorgol recused), approve funding recommendations of the 2020 Spring Cycle of the Competitive Process and appropriate federal dollars. The Ordinances appropriate the City's FY2020 CDBG Entitlement Grant and FY2020 HOME Participating Jurisdiction Grant from the Department of Housing and Urban Development (HUD), and CDBG program income and CDBG reconciled funds from FY2018 and FY2019, and HOME program income and HOME reconciled funds from FY2018 and FY2019.

Councilmember Gorgol withdrew from the discussion of this item due to a conflict of interest.


| RESULT: ORDINANCE NO. 081, 2020, ADOPTED ON SECOND READING [6 TO 0] |
|--------------------------|--------------------------|
| MOVER:                  | Kristin Stephens, District 4 |
| SECONDER:               | Ross Cunniff, District 5  |
| AYES:                   | Pignataro, Gutowsky, Summers, Stephens, Troxell, Cunniff |
| RECUSED:                | Gorgol                   |

Mayor Pro Tem Stephens made a motion, seconded by Councilmember Cunniff, to adopt Ordinance No. 082, 2020, on Second Reading.

| RESULT: ORDINANCE NO. 082, 2020, ADOPTED ON SECOND READING [6 TO 0] |
|--------------------------|--------------------------|
| MOVER:                  | Kristin Stephens, District 4 |
| SECONDER:               | Ross Cunniff, District 5  |
| AYES:                   | Pignataro, Gutowsky, Summers, Stephens, Troxell, Cunniff |
| RECUSED:                | Gorgol                   |

19. **Second Reading of Ordinance No. 083, 2020 Imposing a Moratorium Until January 31, 2021, Upon the City’s Acceptance and Processing of Applications for Approval of New Service Plans for Metropolitan Districts. (Adopted on Second Reading)**

This Ordinance, adopted on First Reading on June 16, 2020 by a vote of 5-1 (Nays: Summers, Troxell absent), imposes a moratorium until January 31, 2021, on the City’s acceptance and processing of new applications for approval of service plans for Metropolitan Districts. This moratorium will apply to the consideration of new Service Plans, but not to the amendment of Metropolitan District Service Plans previously approved by Council or to the consideration of agreements with the City as contemplated in such Service Plans. For example, the moratorium would not apply to Council’s consideration of Public Benefit Agreements and Intergovernmental Agreements contemplated in certain existing Service Plans.
Paul Sizemore, Interim Community Development and Neighborhood Services Director, stated this item is the Second Reading of a moratorium on accepting new applications for approval of metropolitan district service plans. Under the moratorium, existing metropolitan districts would still be able to move forward with service plan amendments. The moratorium would terminate on January 31, 2021, or when Council adopts updates to the policy and chooses to end the moratorium. There will be no metropolitan districts going to election in November of 2020 and the next opportunity for a district election is in May of 2021 for which a developer would need to submit a letter of intent by November of this year. Cameron Gloss, Planning Manager, will be the project manager on this policy update.

Cameron Gloss, Planning Manager, discussed the timeline for the policy update which will include stakeholder and boards and commissions input and will result in a new recommended approach by the end of fall. Staff will be looking at the use of metropolitan districts around the state with a focus on quantifying impacts and creating a rubric for defining extraordinary or exceptional benefit.

Mayor Pro Tem Stephens made a motion, seconded by Councilmember Cunniff, to adopt Ordinance No. 083, 2020, on Second Reading.

Mayor Pro Tem Stephens stated there has been no alignment around the metropolitan district policy with this Council and this moratorium will allow for an in-depth discussion about the extraordinary community benefits and effects on consumers.

Councilmember Gutowsky stated she would like to see everyone on Council have the same information and commended the idea of the formation of a rubric.

Councilmember Summers stated a moratorium is not needed to accomplish what has been outlined by Mayor Pro Tem Stephens.

Mayor Troxell stated he would also oppose the motion as a policy update can occur without a moratorium.

Councilmember Cunniff stated the moratorium is not superfluous as there would still be the opportunity for a metropolitan district to be put forth for a May 2021 election and the current pace of policy discussions, given COVID, may not allow for this policy update to occur.

| RESULT: | ORDINANCE NO. 083, 2020, ADOPTED ON SECOND READING [5 TO 2] |
| MOVER:  | Kristin Stephens, District 4 |
| SECONDER: | Ross Cunniff, District 5 |
| AYES:   | Pignataro, Gorgol, Gutowsky, Stephens, Cunniff |
| NAYS:   | Summers, Troxell |
20. **Resolution 2020-068 Appointing Councilmembers to Serve on an Ad Hoc Council Committee to Support the Development of the Housing Strategic Plan. (Adopted)**

The purpose of this item is to appoint Councilmembers to an Ad Hoc Council Committee to support the development of the Housing Strategic Plan. This work aligns with the Council Priority of Affordable and Achievable Housing Strategies.

Jackie Kozak-Thiel, Chief Sustainability Officer, stated this item relates to one of Council's adopted priorities: affordable and achievable strategies for housing. The committee will guide the new Housing Manager in the update of the Housing Strategic Plan. Lindsay Ex will serve as the interim Housing Manager for approximately one year.

Lindsay Ex, interim Housing Manager, discussed the history and goals of the Housing Strategic Plan. The purpose of the ad hoc committee is to identify opportunities to achieve housing stability for all community members and begin identifying and evaluating strategy. Staff would like to bring the Housing Plan before Council for adoption in February of 2021 with this committee meeting from August through December in preparation for that adoption.

Jason Knebgl stated $300,000 homes and condos are not affordable and more of a focus needs to be placed on truly affordable housing for working citizens.

Councilmember Gorgol, Mayor Pro Tem Stephens, Councilmember Cunniff, and Councilmember Summers expressed interest in serving on the committee.

Mayor Pro Tem Stephens made a motion, seconded by Councilmember Gorgol, to adopt Resolution 2020-068, inserting the names of Ross Cunniff, Emily Gorgol, Ken Summers, and Kristin Stephens with the committee to be in effect through April of 2021.

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<tr>
<td>AYES:</td>
<td>Pignataro, Gorgol, Gutowsky, Summers, Stephens, Troxell, Cunniff</td>
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21. **Resolution 2020-069 Approving an Agreement to Secure Public Benefits for Waters' Edge Development as Provided in Service Plan for Waters' Edge Metropolitan District Nos. 1 through 5. (Postponed to August 18, 2020)**

The purpose of this item is to consider a Resolution adopting the Agreement to Secure Public Benefits for the Waters’ Edge Development. The Agreement is contemplated in the Consolidated Service Plan for Waters’ Edge Metropolitan Districts Nos. 1-5, approved by Council on September 18, 2018. Staff has completed its review of the Public Benefits Agreement to ensure it conforms to the service plan adopted by Council.

Paul Sizemore, Interim Community Development and Neighborhood Services Director, stated this item involves the public benefits agreement for the Waters’ Edge development metropolitan district. The Waters' Edge development is a 55+ community designed to allow residents to age in place. The first phase of this development has already been through development review with an approved final development plan in place.

Sizemore outlined the specific public benefits set to be provided by the metropolitan district, including affordable housing, water efficiency, public spaces, and ditch restoration. He noted two-thirds of the affordable housing units must be provided prior to the second half of market units.
receiving building permits, and all of the affordable housing units must be provided prior to the last 100 building permits being released. Sizemore indicated staff is recommending adoption of this item.

Tamara Murer questioned the number of affordable housing units being provided and expressed concern the City is selling out to developers.

Gene Meyers, Thrive Home Builders CEO, stated his company has been selected to build about two-thirds of the homes in the first phase of Waters’ Edge. He detailed the design components that will allow occupants to age in place safely.

Mary Alice Grant stated housing for an aging population is important; however, she agreed the City may be selling out to homebuilders and stated affordable housing should be part of all developments.

Bill Swalling, Waters’ Edge developer, discussed the goal of the design of this project including access to open space and home accessibility. All amenities are designed for residents to be able to reach their full potential mentally, physically, and spiritually.

Mayor Pro Tem Stephens asked about the affordable housing unit numbers. Sizemore replied the project is divided into two phases and the plan includes 10% of the affordable units in the second phase; therefore, the public benefits agreement mirrors the service plan in that way.

Mayor Pro Tem Stephens asked if all affordable units will be at 80% AMI or if that will be an average. Rachel Rogers, Senior Specialist, Economic Sustainability, replied it will be an average 60% AMI overall with none greater than 80% AMI.

Mayor Pro Tem Stephens stated she did not support this item on First Reading.

Councilmember Gutowsky expressed concern there is no assurance the public benefits will be provided, and the development will be built. Sizemore replied the assurance that benefits are provided concurrent with the development is to link them to the issuance of building permits. Robert Rogers, developer, stated this public benefits agreement is a decision about how well the agreement is aligned with the agreed to commitments when Council approved the service plan. The City has increased some of the requirements and argued this is the strongest public benefits agreement to come before Council.

Councilmember Gutowsky agreed additional senior housing is needed and asked about the average cost of a market home in the development. Mr. Swalling replied the homes will likely sell for $260 per square foot and the homes should range from 1,000 square foot condos, 1,800 square foot townhomes, to larger waterfront homes.

Councilmember Gutowsky questioned whether these homes would be attainable for community seniors particularly given the property tax increase at the second year of ownership with a metropolitan district. She also inquired if there are any rental units planned. Mr. Swalling replied in the negative.

Councilmember Gutowsky asked if there will be anything preventing speculators from purchasing the homes and renting them to seniors. Mr. Swalling replied the goal is to sell directly to
consumers, although they cannot prevent a speculator from purchasing a home. Mr. Meyers replied there is no intention of making this a speculator market.

Councilmember Cunniff asked if the mix of housing sizes proposed when the metropolitan district was being formed has remained the same. Mr. Swalling replied in the affirmative.

Councilmember Gorgol expressed concern the 80% AMI number is for a family of four, which most seniors are not part of, and the 60% AMI number is for a rental. She requested some clarity regarding the decision this Council will make due to the metropolitan district being approved by a previous Council. City Attorney Daggett replied there is a Council-approved service plan in place that sets up a process under which a public benefits agreement will come forward that implements the terms of the service plan. If Council is concerned this public benefits agreement does not adequately implement the service plan, it would be the primary and appropriate basis for refusing to approve the agreement.

Mayor Pro Tem Stephens asked if all affordable units will be at 80% as there are no rental units planned. Sizemore replied the affordable units are at 80% AMI and there is a provision that they may be leased, and if so, must be at the 60% AMI.

Mayor Pro Tem Stephens asked if there will ultimately be 85 affordable units, which would be 10% of the total number of units. Sizemore replied the service plan specifically looked at the affordable units being part of phase two, so it will be 10% of that number, which is 48.

Councilmember Summers made a motion, seconded by Councilmember Pignataro, to adopt Resolution 069-2020.

Councilmember Pignataro stated she would support the motion to respect the decision of the previous Council.

Councilmember Cunniff stated he does not support this as the deed restrictions and covenants are not sufficient to protect potential buyers who are not aware of the existence of the metropolitan district. Additionally, the decision of the previous Council does not bind this Council to a decision and expressed concern the service plan does not provide enough assurance the affordable units will be provided.

Councilmember Summers noted this is not a vote on the service plan but on the public benefits that are in alignment with the already approved service plan.

Mayor Troxell stated he would support the motion as the development adds diversity to the city's housing stock and fills a need in the 55+ housing category.

Mayor Pro Tem Stephens asked whether the deed restrictions are thorough enough to ensure the affordable units remain so. Deputy City Attorney John Duval replied the agreement requires a 20-year covenant be imposed on the property that runs with the land. Additionally, the affordable housing units must be built prior to attaining building permits for the market-rate units. The 80% AMI number could be changed from a family of four to a family of two, which may make more sense for senior housing.

Mr. Swalling agreed the 80% AMI number should be for a family of two and was what was intended and can be incorporated into the agreement.
Councilmember Summers suggested the AMI number should be based on the number of people in the family purchasing the home, which could be less than two. He also stated the goal of this project is to provide homes in which seniors can age in place.

Mayor Pro Tem Stephens stated there is more of an issue for people over 55 who are on fixed incomes and need affordable options. She expressed concern that the true number of affordable units is only 5%.

Councilmember Cunniff discussed the importance of ensuring qualified individuals are purchasing these units, which has been an issue in other Fort Collins communities.

Councilmember Gorgol expressed concern the AMI number needs to relate to the number of people buying the home, not the number of people living in the home.

Mayor Pro Tem Stephens asked if this item could be tabled for additional consideration. City Attorney Daggett replied the item could be postponed to the August 18 meeting to allow staff time to examine the public benefits agreement and its mechanisms.

Joe Knopinski stated the development is meeting the terms of the service plan.

Mr. Swalling stated his team is willing to work out the AMI issue and discussed how documentation between parties ensuring qualified individuals are purchasing the units has worked in other communities. This documentation has been enforced by the metropolitan district with an intergovernmental agreement in place.

Mayor Pro Tem Stephens made a motion, seconded by Councilmember Gorgol, to postpone consideration of this item to August 18 to allow legal staff to meet with the developer to better define the aforementioned issues.

RESULT: POSTPONED TO AUGUST 18, 2020 [6 TO 1]
MOVER: Kristin Stephens, District 4
SECONDER: Emily Gorgol, District 6
AYES: Pignataro, Gorgol, Gutowsky, Stephens, Troxell, Cunniff
NAYS: Summers

22. Council Consideration of Whether to Authorize By Motion Remote Hearings for Various Zoning, Development and Historic Preservation Items. (Adopted)

The purpose of this item is to consider multiple exceptions to Ordinance No. 079, adopted by Council on June 16, 2020, to allow various zoning, development and historic preservation items to proceed to public hearings using Remote Technology. A suggested motion is provided on pages 5 of this Agenda Item Summary.

Ordinance No. 079 authorizes Council, Planning & Zoning Board (P&Z), the Landmark Preservation Commission (LPC) and the Building Review Board (BRB) to hear quasi-judicial items but specifically excludes from that authorization decisions related to zoning/rezoning, appeals, and additions of permitted use (APUs). The Ordinance does, however, allow Council, by motion adopted by at least five Councilmembers, to authorize exceptions to that exclusion. In order to authorize remote hearings for the listed items, Council must find that such hearings are pressing and require prompt action and that virtual technology will provide for sufficient public participation and input. Staff is requesting Council consider allowing the following items to proceed:
Rezoning Items
1. Fischer Rezone (Awaiting P&Z recommendation and Council hearing)
2. Spring Creek Rezone Correction of Map Errors (Awaiting P&Z recommendation and Council hearing)
3. Rezoning of Manufactured Housing Communities (City-initiated rezoning of existing manufactured housing communities)
4. Timberline Church Rezone (Awaiting P&Z recommendation and Council hearing)
5. Hughes Stadium Property Rezone (Pre-Application Hearing scheduled for City Council on August 4, 2020)

Addition of Permitted Use (APU)
6. Wells Fargo Parking Lot and ATM Addition of Permitted Use (awaiting P&Z decision, no Council decision required except in case of an appeal)

Appeals of Staff Decisions
7. Appeal of Landmark Planned Unit Development (PUD) Minor Amendment (appeal to P & Z Board)
8. Appeal of determination of eligibility for landmark designation for two properties at 724 and 726 South College Avenue (appeal to LPC)
9. Appeal of determination of eligibility for landmark designation for 945 East Prospect Road (appeal to LPC)
10. Appeal of a decision to deny an upgrade to the General Contractor License for Tree Line Builders (appeal to Building Review Board)

Mayor Troxell suggested dealing with all items except the Hughes Stadium Property Rezoning as part of Item No. 22 and adding an Item No. 22A that will involve the same process but just for the Hughes Stadium Property Rezoning.

Mayor Pro Tem Stephens withdrew from the discussion of the Hughes Stadium Property Rezoning due to pending ethics questions at the state level.

Councilmember Cunniff made a motion, seconded by Councilmember Gorgol, to split agenda Item No. 22 into No. 22A, to consider only the Hughes Stadium Property Rezoning, and No. 22B, to consider all other items that were part of the original item.

Kathryn Dubiel stated she understands the purpose of splitting this item and requested the B items be heard first.

Tamara Murer commented that contentious issues always seem to be moved to the end of the agenda and she opposed that occurrence.

Rory Heath agreed with Ms. Murer and expressed appreciation for Mayor Pro Tem Stephens' recusal.

The vote on the motion was as follows: Yeas: Pignataro, Gutowsky, Gorgol, Cunniff, Summers and Troxell. Nays: none.

Kathryn Dubiel questioned how this does or does not violate the ex parte rules and stated remote hearings are not equivalent to in-person hearings for items of considerable community interest.
Jason Knebgl stated a remote hearing on the Hughes Rezoning in no way provides significant public input or participation. He commended Mayor Pro Tem's recusal and stated the Mayor has no integrity in this matter.

Mary Alice Grant opposed allowing remote hearings for the Hughes Stadium Rezoning stating technology is not reliable and this topic is highly charged.

Rory Heath requested Mayor Troxell recuse himself from the vote on this item and stated this matter is not pressing nor does it require prompt action. A vote approving remote measures like this is contrary to the law.

Beth Bensheit discussed air quality issues in the northern Colorado area and stated this development will cause even more negative air quality.

Tamara Murer stated the technology is inadequate for remote hearings and opposed allowing a remote hearing on the Hughes Rezoning. She also requested Mayor Troxell recuse himself from this vote.

Councilmember Pignataro requested staff address the ex parte communication issue. City Attorney Daggett replied the issue of ex parte communication is about decision-makers having private conversations with individuals regarding matters coming before them. A pre-application hearing is designed to create a process where the presentation being made is public, members of the public have an opportunity to speak, and the hearing is recorded and televised; however, it does not have the characteristics of an ex parte communication. The reason a remote technology hearing is being considered is because one or more Councilmembers may not be present in the Council chambers. The remote technology provision is about the decision-makers, not members of the public who may be speaking.

Councilmember Cunniff stated he would not support this item being heard remotely.

Councilmember Gutowsky commented on the need to have interested parties present and expressed support for the hearing not occurring until that is an option.

City Attorney Daggett noted the pre-application hearing process occurs prior to the submittal of any application.

City Manager Atteberry stated Chancellor Tony Frank hopes to use this process to discuss his vision and how it aligns with the City's Strategic Plan.

Councilmember Cunniff suggested the City may want to have conversations with CSU about a partnership on purchasing the land to build workforce housing and maintain open space.

City Attorney Daggett noted the pre-application hearing process is only available for projects that involve bigger picture issues coming before Council for decisions other than just a pure development review approval. She also noted a quorum of Council must be present in chambers and in-person public participation must be an option for this to occur.

Councilmember Summers expressed support for the hearing moving forward with the caveats mentioned by City Attorney Daggett. He also reiterated the hearing is a conversation and does not accommodate a developer, but accommodates the property owner.
Councilmember Gorgol stated this issue needs to move forward and asked Councilmember Cunniff what he is envisioning as a conversation. Councilmember Cunniff replied he was envisioning a less formal worksession-type setting as opposed to a pre-application hearing.

Mayor Troxell suggested the pre-application hearing is an opportunity to have a two-way discussion with the landowner. City Manager Atteberry agreed and stated it would be beneficial to have some clarity around the issue.

Councilmember Pignataro stated she would not support moving forward with this item as a hybrid meeting.

Councilmember Gorgol stated this may not feel like a conversation as CSU is coming forward with a development proposal.

City Manager Atteberry suggested he could inform Chancellor Frank of this discussion and if he indicates he would like to have a conversation, that could move forth. If his intent is to bring forward a proposal, this may not be the proper forum.

Councilmember Cunniff made a motion, seconded by Councilmember Pignataro, to postpone consideration of Item No. 22A to August 4, 2020.

Councilmember Summers suggested Council decide based on its goals, not on the public perception of four individuals who may not understand the meaning of a pre-application hearing.

Councilmember Gutowsky stated there are more than just four individuals with concerns about this item.

The vote on the motion was as follows: Yeas: Summers, Gorgol, Cunniff, Troxell, Pignataro and Gutowsky. Nays: None.

Councilmember Cunniff made a motion, seconded by Councilmember Gutowsky, to suspend the rules of Council to extend the meeting past 10:30 PM to consider Item 22B and such other business as may come before the Council. Yeas: Summers, Gorgol, Cunniff, Troxell, Pignataro, Gutowsky and Stephens. Nays: None.

Kathryn Dubiel discussed item number 7 on the list of remote hearing authorizations: Appeal of Landmark Planned Unit Development (PUD) Minor Amendment (appeal to P & Z Board). Staff found the fact that this appeal has yet to be heard by the Planning and Zoning Board creates an ongoing risk to the developer of the Landmark Apartments expansion project until the appeal has been resolved. She displayed photos of the property indicating it has been undergoing development since March 10 after the minor amendment was approved. She opposed the characterization that the consideration of this appeal is urgent and must be considered remotely.

Colleen Hoffman supported Ms. Dubiel's comments stating the appeal was filed March 18; however, the developer was able to move forward and a construction permit was issued. An in-person appeal hearing before the Planning and Zoning Board is important.

Mayor Troxell requested staff input as to the status of the appeal in the context of its timing coinciding with the stay-at-home order for COVID-19. Rebecca Everette, Development Review
Manager, replied the Landmark Apartments Expansion Project is the expansion of an existing apartment complex and part of the conditions of approval applied by Council when the project was originally appealed was that all of the public amenities for both the original portion and the expanded portion be mutually available to residents of both developments. As a mechanism for ensuring that was the case, staff required an amendment to the original PUD plan for the original Landmark Apartments as the expansion project went through the final plan process. The final development plan for the expansion was approved after the minor amendment was approved for the original apartment complex and it is that minor amendment documenting the mutual agreement between the two properties that is under appeal. The developer's project is being put at risk as construction can move forward at it's own risk; however, the more the developer invests in construction, the more it has to lose if the minor amendment decision is overturned via an appeal process.

Mayor Troxell asked if this item would allow for remote participation by decision makers and asked how citizen participation before the Board would occur. City Attorney Daggett confirmed the motion would allow decision makers to participate remotely and does not govern public participation. Everette indicated the Planning and Zoning Board is currently meeting 100% virtually, including public participation. Meetings could be adapted to meet in a hybrid manner to allow for in-person public participation if requested by Council and agreed to by board members.

Councilmember Pignataro asked if any of the boards under consideration in this item provided input on possible remote hearings for these items. Everette stated staff did not request input from the board for a specific recommendation as the ordinance adopted by Council related to remote meetings designates Council as the decision-maker on whether the items could proceed remotely.

Councilmember Pignataro stated she would not support remote hearings for appeals unless the appellants agreed to remote hearings.

Councilmember Cunniff asked if applicants and appellants must both agree to remote appeal hearings. City Attorney Daggett replied the language specifically provides that notice will be given to the applicant and appellant of a remote hearing and each party has the ability to object and request that the item wait until it can be conducted as an in-person hearing. This motion is intended to allow consideration of items that otherwise would be barred from moving forward remotely in accordance with Ordinance No. 079, 2020.

Councilmember Summers asked if there is any reason a hybrid meeting could not occur for the Planning and Zoning Board. Everette replied all seven of the members have been polled, and about half are comfortable meeting in person; therefore, it is not clear when there might be a quorum of members willing to attend meetings in person.

Mayor Pro Tem Stephens made a motion, seconded by Councilmember Cunniff, that Council find the quasi-judicial matters numbers 1 through 10, less number 5, to be pressing and require prompt action and that virtual technology will provide due process to hear them through sufficient public participation and input, and authorize remote hearings for said items.

Councilmember Cunniff requested a friendly amendment to require a quorum of the Planning and Zoning Board to be present physically and utilize a hybrid-style meeting that would allow in-person public participation as an option and to add a statement that this authorization is not intended to repeal any of the other provisions of Ordinance No. 079, 2020.
Mayor Pro Tem Stephens accepted the amendment as friendly stating she would like to reexamine this issue should items get too backed up on Board agendas.

Councilmember Gorgol expressed concern about telling the Planning and Zoning Board members they must meet in person or get a backlog of items. She questioned why the Board could not participate remotely and still have in-person public participation. Councilmember Cunniff replied the in-person quorum allows for a level of interaction that is much more effective when as many decision makers as possible are in the same room. He would contact the Chair and Vice Chair of the board to determine the willingness of members to participate in person.

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

● CONSIDERATION OF CITIZEN-PULLED CONSENT ITEMS

● 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.)

Councilmember Gorgol requested staff work to develop an education component for remote technology and participation in public meetings. City Manager Atteberry replied staff will work on that issue.

Councilmember Gorgol expressed concern about CSU students returning and stated she would like to see education from the County around proper and safe socialization. City Manager Atteberry replied Council will soon be considering funding recommendations related to COVID-19 resources and one is regional education and a communications strategy.

Councilmember Cunniff requested and received Council support to direct staff to enter into discussions with CSU regarding partnering on the Hughes parcel with an eye toward attaining affordable/workforce housing and preserving a large amount of the land as unoccupied open space or natural area.

Councilmembers Pignataro and Summers expressed support for Councilmember Cunniff’s idea.

Councilmember Summers requested Council support to draft a resolution in support of the Fort Collins Police Department.

Councilmember Pignataro expressed concern that such a resolution may create a dichotomy that should not exist given the work of the ad hoc committee has yet to begin.

Mayor Troxell suggested framing such a resolution as a community-wide effort aimed at making Fort Collins the safest city in the country.
Mayor Pro Tem Stephens discussed the need for balance and urged caution that such a resolution may make the community more at odds.

Councilmember Summers stated it would be a sad indictment on this Council and the City if there is more concern about not defending public buildings from rioters and vandals than about supporting Police officers.

Mayor Pro Tem Stephens stated it is important to have a response that feels thoughtful and not rushed.

Councilmember Gutowsky stated the purpose of the ad hoc committee is to bring an understanding of various opinions.

Councilmember Cunniff stated he is very supportive of Police Services and they have been and will continue to be leaders in their field. There is always room for improvement, however, and he is not ready to make a blanket statement in support of Police. He would not say no to a resolution regarding support of Police and their continuous process of improvement. The ad hoc committee is a good place to have that discussion.

City Manager Atteberry stated he recently had a conversation with police officers and they are struggling with emotions. He has never heard a lack of support for Police Services from any Councilmembers and this conversation should not be interpreted as a lack of support.

B. Consider a motion to enter into executive session to discuss Broadband issues.

This item was not considered due to the lateness of the hour.

● ADJOURNMENT

A. Consider a motion to adjourn until 6:00 p.m. Tuesday, July 28, 2020.

(Secretary’s Note: Councilmember Summers left the meeting at 12:10 AM)

Mayor Pro Tem Stephens made a motion, seconded by Councilmember Cunniff, that Council adjourn this meeting to 6:00 p.m. on Tuesday, July 28, to consider:

- an Emergency Ordinance related to CARES Act Relief Funding Allocations;
- a Resolution related to the Northern Integrated Supply Project;
- a motion to enter into executive session to discuss Manufactured Housing Zoning matters
- such other business as may come before the Council.

Councilmember Cunniff suggested a friendly amendment to include an Executive Session on broadband matters. Mayor Pro Tem Stephens accepted the friendly amendment.

RESULT: ADOPTED [6 TO 0]
MOVER: Kristin Stephens, District 4
SECONDER: Ross Cunniff, District 5
AYES: Pignataro, Gorgol, Gutowsky, Stephens, Troxell, Cunniff
AWAY: Summers
The meeting adjourned at 12:16 AM.

______________________________
Mayor

ATTEST:

______________________________
City Clerk
ROLL CALL

PRESENT: Pignataro, Gorgol, Gutowsky, Summers, Troxell, Cunniff
ABSENT: Stephens
Staff: Atteberry, Daggett, Coldiron

AGENDA REVIEW: CITY MANAGER

Mayor Troxell noted this meeting will be interpreted into Spanish.
City Manager Atteberry stated there were no changes to the published agenda.
City Clerk Coldiron discussed the public participation options for the meeting.

PUBLIC COMMENT

Jason Knebgl opposed Councilmember Summers' comments and behavior during the discussion of the Hughes Stadium property rezoning at the July 21, 2020 meeting.

CONSENT CALENDAR

Councilmember Summers withdrew Item No. 13, First Reading of Ordinance No. 098, 2020, Amending Section 18-6 of the Code of the City of Fort Collins Regarding Mobile Home Park Management and Livability, from the Consent Agenda.

Rich Stave withdrew Item Nos. 6, Second Reading of Ordinance No. 090, 2020, Designating the Woods-Gilkison-Dunn Property, 331 South Loomis Avenue, Fort Collins, Colorado, as a Fort Collins Landmark Pursuant to Chapter 14 of the Code of the City of Fort Collins, 7, Second Reading of Ordinance No. 091, 2020, Designating the Benton-Schultz Duplex Property, 1016-1018 Morgan Street, Fort Collins, Colorado, as a Fort Collins Landmark Pursuant to Chapter 14 of the Code of the City of Fort Collins, and 8, Second Reading of Ordinance No. 092, 2020, Designating the Brawner-McArthur Property, 228 Whedbee Street, Fort Collins, Colorado, as a Fort Collins Landmark Pursuant to Chapter 14 of the Code of the City of Fort Collins, from the Consent Agenda.

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

RESULT: ADOPTED [UNANIMOUS]
MOVER: Emily Gorgol, District 6
SECONDER: Julie Pignataro, District 2
AYES: Pignataro, Gorgol, Gutowsky, Summers, Troxell, Cunniff
ABSENT: Stephens
1. **Second Reading of Ordinance No. 085, 2020, Making Supplemental Appropriations for the Restorative Justice Services Program.** *(Adopted)*

This Ordinance, unanimously adopted on First Reading on July 21, 2020, appropriates grant revenue to fund Restorative Justice Services within Community Development and Neighborhood Services (CDNS). A grant in the amount of $67,612 has been received from the Colorado Division of Criminal Justice (DCJ) Juvenile Diversion fund for the continued operation of Restorative Justice Services, which includes the RESTORE program for shoplifting offenses, and the Restorative Justice Conferencing Program (RJCP) and Reflect Program for all other offenses. No match is required. The grant period is July 1, 2020 to June 30, 2021.

2. **Second Reading of Ordinance No. 086, 2020, Making a Supplemental Appropriation in Support of the Epic Homes Program for the Indoor Environmental Quality Study by Colorado State University.** *(Adopted)*

This Ordinance, unanimously adopted on First Reading on July 21, 2020, appropriates $37,000 in grant funds from Bloomberg Philanthropies, as part of the Bloomberg Mayor’s Challenge, from the Fort Collins Utilities Light and Power Fund to be expended to pay a sub-grant to Colorado State University (CSU) for the indoor environmental quality (IEQ) study of Utilities’ Epic Homes Program. It also authorizes and approves the Services Agreement the City and CSU have entered into for the IEQ Study. The Bloomberg Philanthropies funds come from the second tranche of the 2020 grant installment.

3. **Second Reading of Ordinance No. 087, 2020, Appropriating Unanticipated Philanthropic Revenue Received by City Give for the Poudre Fire Authority and City Joint Project to Construct the 9/11 Memorial Park.** *(Adopted)*

This Ordinance, unanimously adopted on Second Reading on July 21, 2020, appropriates $75,200 in philanthropic revenue in the General Fund for transfer to Park Planning & Development. The funds represent cumulative giving from multiple donors and the gifts are designated by the donors for the stated support of the 9/11 Memorial Park.


This Ordinance, unanimously adopted on First Reading on July 21, 2020, appropriates $15,588 in grant funding received from the State Historical Fund, awarded by History Colorado. This grant requires a City match of $6,000 which was appropriated and unexpended in the 2020 budget. The grant funds a historic context report of local architect William “Bill” Robb and the projects he and his firm, now known as RB+B, designed in Fort Collins. Notable projects of Robb’s include the 1957 Municipal Building (Operations Services building), Key Bank at Drake and College, several churches, local residences and many schools for the Poudre R-1 School District.

5. **Second Reading of Ordinance No. 089, 2020, Designating the Lois Struble Property, 129 North McKinley Avenue, Fort Collins, Colorado, as a Fort Collins Landmark Pursuant to Chapter 14 of the Code of the City of Fort Collins.** *(Adopted)*

This Ordinance, unanimously adopted on First Reading on July 21, 2020, designates the Lois Struble Property located at 129 North McKinley Avenue as a Fort Collins Landmark. The owners of this property, Kimberly Medina and Ramon Aguilera, are initiating this request. The duplex is eligible for recognition as a Landmark due to its significance to Fort Collins under Designation Standard 3, Design/Construction and their historic integrity.
6. **Second Reading of Ordinance No. 093, 2020, Authorizing the Conveyance of a Permanent Stormwater Easement on the Southridge Golf Course to 6015 Timberline, LLC and Approving Related Maintenance Obligations.** (Adopted)

This Ordinance, unanimously adopted on First Reading on July 21, 2020, authorizes the conveyance of a stormwater easement on City-owned real property located at Southridge Golf Course at 5750 South Lemay Avenue for the benefit of the Rennat Subdivision owned by 6015 Timberline, LLC.

7. **First Reading of Ordinance No. 095, 2020, Appropriating Unanticipated Philanthropic Revenue Received by City Give for Transfer to the FC Moves Wayfinding Project.** (Adopted)

The purpose of this item is to appropriate unanticipated philanthropic revenue in the General Fund to FC Moves, Planning, Development and Transportation to place approximately 100 permanent bicycle wayfinding signs across 4-5 existing low stress routes. The identified locations generally lower traffic and speed, and/or have dedicated bicycle infrastructure.

8. **First Reading of Ordinance No. 096, 2020, Appropriating Unanticipated Philanthropic Revenue Received by City Give for Transfer to the Natural Areas Fund for Restoration of Land at 2540 West Vine Drive.** (Adopted)

The purpose of this item is to appropriate $76,125 in unanticipated philanthropic revenue in the General Fund for transfer to Natural Areas. The funds represent extraordinary community generosity and create a dedicated fund for the conservation of 38 acres at 2540 West Vine Drive, which was recently purchased by Natural Areas.

9. **Items Relating to the West Elizabeth Corridor.** (Adopted)

A. **First Reading of Ordinance No. 097, 2020, Making Supplemental Appropriations, Appropriating Prior Year Reserves and Authorizing Transfers of Appropriations for 30% Design of the West Elizabeth Enhanced Travel Corridor Project and Related Art in Public Places.**

B. **Resolution 2020-071 Approving an Intergovernmental Agreement with Colorado State University for Funding the 30% Design Work for the West Elizabeth Enhanced Travel Corridor Project.**

C. **Resolution 2020-072 Approving an Intergovernmental Agreement with the Colorado Department of Transportation for Funding the 30% Design Work for the West Elizabeth Enhanced Travel Corridor Project.**

The item requests City Council approve an ordinance appropriating $1.5 million in funding to complete thirty percent (30%) design of the West Elizabeth Enhanced Travel Corridor (the “Project”) and two Resolutions authorizing execution of related Intergovernmental Agreements (IGAs) - one with the Colorado Department of Transportation (CDOT) for overall funding for 30% design of the Project and one with Colorado State University (“CSU”) for contribution of $375,000 in required matching funds (one half of the total required matching funds). The Council Finance Committee endorsed staff’s recommendation to appropriate $375,000 in City Transit reserves to satisfy the City’s one-half share of the required local match at its May 18, 2020 meeting.

The West Elizabeth travel corridor is currently the highest priority pedestrian/alternative mode area for improvement in the City and was highlighted in City Plan and the Transit Master Plan. The City was awarded a $750,000 Multimodal Options Fund grant ("MOF" Grant) from the North Front Range Metropolitan Planning Organization (NFRMPO) to help complete 30% design of the Project. (CDOT manages the grant funding for NFRMPO). CSU has agreed to appropriate $375,000 to help fulfill the grant match requirements. The City will be required to bring $375,000 in local funds to fulfill the total match and complete the $1.5 million design.
This Project involves estimated construction costs of more than $250,000, and as such, Section 23-304 of the City Code requires one percent of qualified appropriations to be transferred to the Cultural Services and Facilities Fund for a contribution to the Art in Public Places (APP) program. One percent (1%) of the total City local match, a total of $3,750, has been identified as the recommended transfer from the Capital Projects Fund to the Cultural Services and Facilities Fund to meet this Code requirement. Neither the MOF Grant nor the CSU funding is eligible to be used for art and is excluded from the calculation.

10. **First Reading of Ordinance No. 099, 2020, Authorizing the Conveyance of an Emergency Access Easement on 2554 Midpoint Drive to 2536 Midpoint Drive, LLC.** (Adopted)

The purpose of this item is to authorize the conveyance of an emergency access easement to 2536 Midpoint Drive, LLC on City-owned real property located at 2554 Midpoint Drive. In exchange, 2536 Midpoint Drive, LLC will convey a similar emergency access easement to the City on its adjacent real property located at 2536 Midpoint Drive. The easements will satisfy regulatory requirements to allow fire trucks and other emergency service vehicles to enter one property and exit from the other.

11. **Resolution 2020-073 Appointing One Boardmember Selected by Mutual Agreement of Fort Collins and Larimer County to the Boxelder Basin Regional Stormwater Authority Board of Directors.** (Adopted)

The purpose of this item is to appoint Gerry Horak to the Boxelder Basin Regional Stormwater Authority Board.

12. **Resolution 2020-074 Making Appointments to the Air Quality Advisory Board.** (Adopted)

The purpose of this item is to fill existing vacancies on the Air Quality Advisory Board due to the resignations of previous boardmembers.

**STAFF REPORTS**

A. COVID-19 Update: Resident Resources, Communications & Engagement (staff: Amanda King, Leo Escalante)

Amanda King, Communications Director, discussed the suite of tactics and programs implemented by the City to aid in connecting community members to a variety of resources related to COVID.

Leo Escalante, Public Engagement Specialist, discussed community partnerships that have been an integral part of COVID-19 communications and engagement. He detailed the internal tracking document that highlights key community needs and how the City is supporting those efforts and discussed the internal working group formed to support vulnerable and susceptible community members.

King discussed the additional resources and support CARES Act funding will provide, including the regional Keep NoCo Open promotion.

Mayor Troxell asked how staff is engaging with CSU, particularly off-campus residents. King responded she has been meeting with the CSU communications team and has coordinated to have the Keep NoCo Open materials included in the Community Welcome bags. CSU also has a task force looking at how off-campus behavior is going to apply to the student Code of Conduct.

Mayor Troxell discussed the Larimer County dashboard that tracks COVID-19 numbers. King replied a link to the dashboard has been included in the weekly newsletter.
Councilmember Gorgol asked about door-to-door engagement. King replied there were no physical conversations; however, Code Compliance Officers were leveraged to drop off brochures that included a list of information in English and Spanish. Additionally, the vulnerable and susceptible populations team did a deep dive of the opportunity index to determine which neighborhoods should be targeted.

Councilmember Gorgol asked if there was an increase in people utilizing programming after outreach occurred. King replied there has been an increase in applications for utility assistance.

Councilmember Gorgol stated a metric comparing numbers of people who need resources versus those utilizing resources would be helpful.

**CONSIDERATION OF COUNCIL-PULLED CONSENT ITEMS**


_The purpose of this item is to present proposed City Code updates related to the livability issues identified by residents, property managers, and owners of manufactured housing communities. Staff’s recommendation includes the following Code changes:_

- The establishment of a new requirement for every mobile home park owner to post an onsite manager’s name, regular office hours, and emergency contact instructions in both English and Spanish in a conspicuous location near the park entrance or management office in Section 18-6(a).

- The establishment of a new, consistent requirement that trees and tree maintenance costs in mobile home parks in Fort Collins are the responsibility of mobile home park owners and that tree maintenance costs may not be charged to residents in Section 18-6(c).

- The establishment of limitations on property owner or manager-required upgrades or improvements to a mobile home or mobile home lot by residents. Upgrades or improvements related to the mobile home’s exterior maintenance, repair, and upkeep under the park’s lawful rules are allowed in Section 18-6(e).

- The expansion of protection for organizing homeowners’ associations for mobile home parks outlined in Colorado Revised Statute § 38-12-206 to include neighborhood groups that represent residents and renters as well as homeowners and the establishment of protection against retaliation for participating in mobile park homeowner’s associations, neighborhood groups, and community meetings in Section 18-6(f).

Councilmember Summers stated he withdrew this item for clarification around some of the provisions.

Jason Knebgl stated he lives in a mobile home park and mobile homeowners face a host of problems under the current system of rules and regulations. He opposed the current system under which mobile homeowners are responsible for tree maintenance.

Patty Baker stated she lives in a mobile home community and owners fear eviction because park owners may sell the properties.

Councilmember Summers thanked the speakers and agreed rights should be protected. There have been state bills passed on mobile home resident protections and he questioned why they are not providing adequate provisions. He also questioned why efforts around mobile home parks can come from out of town. JC Ward, City Planner, replied the four provisions are specific responses to local issues that were identified by Fort Collins residents and property managers in public outreach. The state regulations do not protect against some of these issues because the state system
does not allow for anonymous reporting of issues and does not allow an advocacy group to be able to file a complaint on behalf of a resident or group of residents, which is particularly important for renters.

Councilmember Summers asked if these priorities were identified before or after the state legislation. Ward replied they were identified after the first round of legislation, which was in 2019.

Councilmember Summers asked about hard to reach populations and their engagement. Ward replied the ‘hard to reach’ definition is from the CPIO public engagement strategies that were created in 2016 to identify target demographics including low English proficiency and lack of access to technology. The Resident’s Rights team is an internal cross-departmental group that works to be a neighborhood liaison for some mobile home groups.

Councilmember Summers stated the City is making concerted efforts to reach this segment of the population.

Councilmember Gorgol made a motion, seconded by Councilmember Pignataro, to adopt Ordinance No. 098, 2020, on First Reading.

Councilmember Gorgol stated these updates for mobile home park management and livability are good protections for residents.

RESULT: ORDINANCE NO. 098, 2020, ADOPTED [UNANIMOUS]
MOVER: Emily Gorgol, District 6
SECONDER: Julie Pignataro, District 2
AYES: Pignataro, Gorgol, Gutowsky, Summers, Troxell, Cunniff
ABSENT: Stephens

● DISCUSSION ITEMS


The purpose of this item is to provide Council with the option to endorse City staff’s May 13, 2020 technical comments (“City Staff 1041 Comments”) that were previously submitted to Larimer County (and provided to Council) on the pending Northern Integrated Supply Project (NISP) 1041 application. The 1041 application focuses on NISP infrastructure and recreation. The City Staff 1041 Comments are focused on infrastructure impacts within the Fort Collins Growth Management Area (GMA) including the proposed installation of a diversion structure in the Cache la Poudre (Poudre) River near Mulberry Street and associated pipeline, all on City-owned natural areas.

This item also provides Council with the opportunity to evaluate its position on NISP. In the Resolution, four options are presented for Council’s consideration along a spectrum:

1. “Cannot Support This Variant of NISP,”
2. “Cannot Support and Oppose Use of Natural Areas,”
3. “Oppose,”
4. “Oppose and Oppose Use of Natural Areas.”

Carol Webb, Utilities Deputy Director, stated the Northern Integrated Supply Project (NISP) is entering completion of its permitting processes. Staff provided technical comments on the 1041 permit application and is seeking Council’s endorsement of those comments. Additionally, staff
Jennifer Shanahan, Watershed Planner, stated the conversation about NISP is about the health and resiliency of the Poudre River. The overall purpose of the water storage and delivery project is to serve 15 municipalities and districts to the east and south of Fort Collins, including the Fort Collins-Loveland Water District. The project involves two reservoirs and a series of pipelines. The focus of the discussion this evening is about the infrastructure within the city, particularly the Poudre intake pipeline. Staff has been guided by Council to focus comments on the City's water-related and environmental assets; therefore, the main focus has been the impact of reduced flows to the health of the Poudre River because NISP will reduce springtime flows.

Shanahan outlined the staff's technical comments noting they are aligned with the policy direction provided since 2018, mainly that the Council cannot support NISP as it is currently described with the understanding that a different conclusion could be reached if the mitigation plan were changed or if a different variant of NISP is proposed. She discussed the intersection of the Poudre intake pipeline with City-owned Natural Areas and noted the City requested Northern Water work with Parks Planning and Long-Range Planning to determine best plans if NISP is built.

Shanahan stated staff is recommending that Council consider endorsing the technical comments sent to the County and indicated Council could recommend staff present comments orally to the County Commissioners later this month. Four options are provided for Council consideration noting staff is recommending option 1, that the current variant of NISP cannot be supported. She noted staff feels this is the best option to optimize outcomes for City resources, including the Poudre River.

Brent Holly stated NISP will have several negative impacts on Fort Collins and discussed these in detail.

Tom Sale stated there are better, more modern, and cheaper solutions for what NISP is trying to accomplish and that other solutions will not have the same negative impacts as will NISP. He will be requesting County Commissioners and Council consider a non-binding review of alternatives before approving the 1041.

Linda Griego requested the City consider other impacts of NISP to the land and communities around Fort Collins. The Glade Reservoir project would have negative impacts on the climate and stated the NISP application has no robust water supply vulnerability study assessing risks at Glade.

Barry Noon stated NISP will inescapably destroy the Poudre River through Fort Collins and further downstream, and as a result, will undermine the City's commitment to prioritize the health of the river. He urged Council to support option 4, to oppose the project and oppose the use of Natural Areas.

Gary Wockner, Save the Poudre, disagreed with staff on several points in the overall conclusion and stated his organization does not endorse the comments sent by staff to the County. The mitigation plan will not remotely mitigate the devastating impacts to the Poudre River. He supported option 4.

Doug Henderson, Sierra Club Poudre Canyon Group, stated NISP will seriously degrade the Poudre River and further water diversion will damage the river's ecology, function and utility, and will damage the area economy. The proposed mitigation plan will have little impact against the environmental damage the plan will cause. Most of the 15 communities and water districts that
hold shares in NISP are outside the Poudre's watershed, giving them little stake in the overall health of the river. He discussed negative climate impacts of the project as well and supported option 4 and encouraged Council and the City to actively work to stop the project.

Preston Brown discussed the negative impacts of the project and noted the whitewater park built by the City, which is a huge asset to downtown Fort Collins, was not even mentioned in the staff comments submitted to the County. The proposed water diversion will cause worsening pollution in the city's stormwater and wastewater due to lack of dilution. He urged Council to support option 4.

Evan Stafford stated the project's mitigation plan is inadequate and the project would destroy river flows through town. He agreed the whitewater park should have been mentioned in staff comments.

Ian Stafford, American Whitewater Colorado Policy Strategist, implored Council to take an in-depth look at how this project will impact instream flows of the Poudre River through town.

Doug Swartz supported option 4 and stated the Poudre River and people, plants, and animals that depend upon it, will lose if NISP is approved. The mitigation plan is not accurate and he encouraged Council to protect the river by voting for option 4.

Brad Winn, Northern Water General Manager, discussed two upcoming processes that will provide the City ongoing input as to how NISP is ultimately configured and how investments toward river mitigation and enhancements are optimally realized. Those processes are the City's upcoming site plan advisory review process and the adaptive management processes.

Della Garrell discussed the importance of the river and stated the negative impact of NISP to the river's well-being and local economy are huge compared to any benefit it may bring. She encouraged Council to take proactive action to prevent the construction of the project.

Ken McCollough noted there is overwhelming opposition to this project and stated Council needs to consider the best interest of Fort Collins and oppose the project.

Nancy York opposed the staff comments and urged Council to consider the negative environmental impacts of the project.

Councilmember Cunniff stated the agenda item summary discusses the ways in which option 1 is compatible with 14 years of Council policy direction and noted option 4 would also be compatible with that same timeframe of Council direction. Webb replied the City has always focused its comments specifically on impacts within the city, never on the purpose and need of the project or at the site of the dam. Council's position has predominately been focused on not supporting the current variant of NISP but leaving open the possibility of changing its position depending on how the project may change.

Councilmember Cunniff stated option 4 still endorses staff's comments and nothing in that option revokes the option for staff to engage in further discussions with Northern. Webb replied conversations could still occur but stated she would need to understand what that option would entail in terms of how staff might implement the position.

Councilmember Cunniff stated option 4 is consistent with the general sense of the last 14 years of Council policy direction and there will be additional opportunities to engage Northern.
Mayor Troxell commented on the importance of having a seat at the table for discussions related to the flow of the river through the city and Fort Collins has invested a great deal in the health of the Poudre River. He agreed the whitewater park should be included in staff comments. One of the biggest opportunities the City will have for comments is through the adaptive management plan. He could oppose the utilization of Natural Areas lands and therefore would support either option 1 or 2. He encouraged the comments made by Dr. Sale regarding the aquifer storage reservoirs to be included and reiterated the importance of having a voice in the conversation.

Councilmember Summers noted dam integrity was mentioned as a concern and asked if the Army Corps of Engineers is authorized to ensure the safety of such a structure. Shanahan replied the dam must meet all safety requirements of the Division of Water Resources.

Councilmember Summers asked if there is a permanent impact on trail visitor use. Shanahan replied there would be temporary closures of the Poudre Trail near Mulberry while the pipe is laid underground and Riverbend Ponds would endure several months of parking lot and trail closures.

Councilmember Summers asked about the source of water that goes into an aquifer as opposed to a dam. Shanahan replied aquifer storage was examined in the EIS process in the NISP alternatives evaluation and was deemed not feasible due to limited availability of aquifer storage in the region. Webb replied the source of water for an aquifer depends on the project.

Councilmember Pignataro asked if the City will no longer have a seat at the table for discussions if it takes a position of opposition. Shanahan replied that has not been clarified and staff would like direction from Council if that is the chosen path. Councilmember Pignataro opposed impacts to Natural Areas but stated she would like to know if utilizing full opposition language limits the City's ability to participate in discussions moving forward.

Councilmember Gutowsky requested an interpretation of the language in option 1. Webb replied that language would allow staff to engage with Northern to look at how to get to an outcome that addresses the fundamental concerns, knowing Council may never get to a 'support' position, but at least to a position that addresses those concerns.

Councilmember Gorgol asked if the City is close to a point where NISP is addressing its fundamental concerns. Webb replied staff members have spent numerous hours discussing the City's concerns with Northern, how the adaptive management framework can be set up and governed in a way that gives the City a voice. Fundamental concerns have yet to be fully addressed. Northern has expressed a desire to do so although no commitments have been made.

Councilmember Cunniff requested staff input on the importance of spring flushing flows to river health. Webb clarified river flows were not part of the scope of the 1041 review. Shanahan replied every river in the west is driven by spring snowmelt and there is a very close connection between those flows and the physical shape of the river. The relationship between the physical water and the rock leads to the opportunity for thriving ecological communities. The spring flows flush out sediment, maintain channel capacity to retain flood resilience, turn over the riverbed which benefits fish spawning, and maintain riverbank vegetation.

Councilmember Cunniff asked if option 4 prohibits staff from having conversations with Northern. Webb replied language could be added to the resolution that would direct staff to continue to work with Northern to move closer to a variant that Council would potentially not oppose.

Councilmember Summers stated he would be surprised if the Colorado Department of Natural
Resources and Fish and Wildlife did not take the importance of spring flows into account in doing their evaluations. He asked if there will be permanent impacts to Natural Areas that cannot be mitigated or restored. Shanahan replied the pipeline would be permanent and there are both permanent and temporary impacts that would result from its installation. Permanent impacts include the diversion in the river, the pipeline that could be seen at the river's edge, the settling pond, and the pumphouse. Additionally, a small area of the Natural Area would be lost to house the pond and pumphouse.

Councilmember Cunniff made a motion, seconded by Councilmember Pignataro, to approve Resolution 2020-075, option 4.

Councilmember Cunniff stated opposing something that does not fit the City's needs seems like a natural step; it does not change things in terms of engagement with Northern. He also opposed any impact on Natural Areas.

Mayor Troxell questioned how there is a path forward to provide benefits to Fort Collins and asked if the City would still be part of the adaptive management committee.

Councilmember Gutowsky commented on the significant ecological impact of the NISP project and questioned whether there would be any benefit to Fort Collins. The river is already fragile and may not withstand this project. She also expressed concern about the impacts of the project on the whitewater park.

Mayor Troxell requested staff discuss the flows. Shanahan replied the Poudre intake pipeline will enable the NISP project to improve base flows in the fall, winter, and early spring from the canyon mouth to Mulberry; however, it does not increase spring flows.

Mayor Troxell asked if the whitewater park would therefore have higher flows for a longer period of the year. Shanahan replied the lower flows that tubers would enjoy will see a slight increase; however, the flows desired by kayakers would be reduced approximately 8 or 9 days per year.

Councilmember Gorgol supported opposing the 1041 permit as the project has not addressed the City’s concerns.

City Attorney Daggett outlined some new language that would add another item in section 3 of the resolution which is already directing the City Manager or his designees to do follow-up after adoption of the resolution that would direct staff to continue diligent efforts to negotiate and work with Northern Water to address the City's concerns regarding NISP and its impacts, including potential impacts to City-owned Natural Areas.

Mayor Troxell questioned whether this language would capture ongoing discussions such as the adaptive management plan. He expressed concern about the City not being a participant in conversations about impacts to Fort Collins and asked if the desire is to have the County deny the 1041 permit. Councilmember Cunniff replied that is his desire.

Councilmember Summers questioned whether this language moves the City from stating it wants to address concerns that impact Fort Collins to a position of no way should this be allowed.

Councilmember Cunniff stated section 1 of option 4 states opposition to NISP as it is currently described and the new language clarifies staff will continue to talk with Northern. He would like the inclusion of the word 'oppose' to indicate this is not a small matter. In addition, this position does not indicate a lack of caring for other communities' water needs. The project includes
guaranteed impacts to the health of the Poudre River and taking the stronger position strengthens the City's bargaining position and makes clear the severity of concerns.

Councilmembers Cunniff and Pignataro accepted the language amendments as friendly.

Mayor Troxell stated the difference between options 2 and 4 is that option 2 provides the intention to work towards and address mitigation of concerns. Webb replied the biggest part of the work staff is now doing is in the adaptive management framework; therefore, it is important that whatever direction staff receives, staff can still continue to navigate those adaptive management discussions in a way where staff is allowed to advocate for the City having a voice in the governance. She stated compelling Northern to do that is challenging.

City Attorney Daggett stated the adaptive management plan is aimed at a much broader range of issues and comes out of the NEPA process and discussions around the 404 permit. Her intention behind the new language is not limited to being only about the 1041 process; therefore, the City's concerns as they have been expressed throughout the course of the process would continue to be concerns covered by staff's work.

Mayor Troxell asked if the reference to the final environmental impact statement (FEIS) could be removed from option 4 to narrow it to opposition of the 1041 rather than to NISP as an entire project.

Councilmember Cunniff asked if the adaptive management plan is included in the current final environmental impact statement. Webb replied the FEIS refers to the adaptive management plan and the record of decision and when it is issued will better articulate how the mitigation that is required by the project will be managed through adaptive management. The primary approval that governs adaptive management is the Fish and Wildlife mitigation and enhancement plan, which is primarily what the group that is working on the adaptive management framework is using.

Councilmember Cunniff stated it is fair to oppose the FEIS as it does not have a complete adaptive management plan and a plan that fully satisfies Council's concerns could change its mind.

Webb stated Council should compel the County to, at the very minimum, address and consider the City's comments as they are critical and substantive.

Mayor Troxell opposed making broad opposition statements.

City Attorney Daggett suggested language that requests the County consider and meaningfully respond to the City staff 1041 comments. Councilmembers Cunniff and Pignataro accepted the language as a friendly amendment.

Mayor Troxell commended the staff work on this item and discussed the importance of continuing to work together with Northern.

City Attorney Daggett added language stating 'and development of a sustainable, long-term approach to avoidance, minimization, management, and mitigation of impacts.' Councilmembers Cunniff and Pignataro accepted the language as a friendly amendment.

Mayor Troxell stated he would support the motion with the changes.
RESULT: RESOLUTION 2020-075 ADOPTED [5 TO 1]
MOVER: Ross Cunniff, District 5
SECONDER: Julie Pignataro, District 2
AYES: Pignataro, Gorgol, Gutowsky, Troxell, Cunniff
NAYS: Summers
ABSENT: Stephens

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

15. First Reading of Ordinance No. 100, 2020, Amending the Land Use Code to Establish a Manufactured Housing Zone District. (Option A or Option B) (Adopted on First Reading)

The purpose of this item is to present Land Use Code (LUC) updates related to the creation of a new zone district for manufactured housing preservation. The staff recommendation includes the following LUC changes:

- The establishment of a new Manufactured Housing (M-H) zone district in Article 4. The district includes its own unique set of permitted land uses and standards related to density, setbacks, building height, building size, and parking.
- New definitions in Article 5 for ‘manufactured home’ and ‘manufactured housing community’ which will replace existing definitions for the terms ‘mobile home’ and ‘mobile home park.’
- Numerous changes throughout Articles 1-4 which serve to reference or classify the new zone district within the context of other general Code standards and process procedures.

Staff is presenting two options for the permitted land uses as part of the new M-H zone district. Option A, first presented to Council at the April 28, 2020, work session, represents a narrower set of permitted land uses while Option B would permit several additional residential land uses which were previously permitted in the City’s former mobile home park districts prior to 1997.

Caryn Champine, Planning, Development, and Transportation Director, stated this item would create a new zone district that is uniquely designed to preserve existing manufactured housing communities.

Ryan Mounce, City Planner, stated this item involves a series of Land Use Code updates that would create a new manufactured housing zone district which would be a new tool for the community to preserve existing manufactured housing communities by encouraging manufactured housing as one of the primary uses in the new district. The ultimate goal of this is to help reduce the likelihood of a community closure due to redevelopment resulting in the displacement of residents and the loss of a very unique type of housing in Fort Collins. This work is part of a series of efforts occurring at both the state and local level to address various issues related to manufactured housing.

Mounce noted there is additional process engagement that would need to be done to consider applying the zone district tool through a rezoning process, which may occur this fall. In addition, there is also a series of Municipal Code changes staff is bringing forward. The specific Land Use Code changes would create the new manufactured housing zone district itself, which is composed of a list of permitted uses and specific zone district standards, updates to Land Use Code definitions, and miscellaneous changes to reference the new zone district itself.

Mounce outlined the proposed permitted uses for the zone district, which are primarily preservation based, noting staff will be presenting options for Council to consider. Option A would allow and encourage manufactured housing, group homes, shelters, and extra occupancy rentals, as well as some institutional uses that would complement the residential uses. Option B includes
the same uses but would add three additional residential uses: single-family detached homes, duplexes, and triplexes. He indicated there has been some concern that option A may be too restrictive for property owners. He also outlined the boards and commissions input regarding the proposed changes.

Susan Preston strongly encouraged Councilmembers to vote for option A stating the 55+ manufactured housing community in which she lives is only one of two existing senior manufactured housing park resources in the city limits. She expressed concern about the loss of her property.

A video discussing the importance of preservation of communities was shown.

Two audio clips were played. The first supported option A and discussed the importance of manufactured housing as an affordable option. The second discussed the importance of manufactured housing as an affordable option for families.

Councilmember Summers requested information regarding why these individuals fear losing their homes. Mounce replied there are several reasons, but much of the concern comes from a dual ownership model wherein many residents own their unit, but not the land underneath. This leads to a lack of control over lot rent. Additionally, there is uncertainty around what happens if a community closes as adequate space in other communities would be difficult to find and moving units is quite costly.

Councilmember Summers stated it is important to protect this type of affordable housing; however, he does not want to do so out of an inciting of fear.

Mayor Troxell asked if the formation of this zone district will guarantee the property use will not change. Mounce replied the goal is to reduce the likelihood that a community would close, primarily due to redevelopment, for any properties that are rezoned to the new zone district in the future.

Mayor Troxell noted there would be a public process for a landowner who may want to propose a new use for a manufactured housing community and there are no guarantees that the use would remain given the formation of this zone district.

Mayor Troxell asked about the zone standards and how many of the existing communities would meet them. Mounce replied it is not the expectation that these standards would immediately apply and changes would be required because this is likely to be applied to existing development. The existing communities would likely be grandfathered or become permitted non-conforming uses. The standards would come into effect if any changes or new development were proposed, but that would occur through a development review process.

Mayor Troxell asked about the two options. Mounce replied option A has greater preservation potential because option B would allow a property owner to redevelop into duplexes or triplexes, which could result in the displacement of residents and the loss of manufactured housing units. Option B was included to try to address feedback about the impacts on property owners as well as the rights and desires of residents.

Mayor Troxell asked if this zoning is primarily preservation focused or if it would have any benefits moving forward. Mounce replied the zoning could be considered retroactive in terms of applying it to existing development and the goal of preservation of the existing units has been identified as being important. Potential benefits of option B are shifted toward some of the existing
Mayor Troxell asked how rents are charged at manufactured housing communities. Mounce replied there could be different options for lot rent; however, it is usually paid monthly and may include certain utilities or access to amenities. Some units are rented out by the property owners and some are owned.

Councilmember Gutowsky asked about the general response from property owners regarding these options. Mounce replied staff has had differing levels of success directly communicating with certain property owners. Other property owners have had mixed responses. Some of the proposed zone district standards are like other communities and some have expressed concern this represents a large deviation from current zoning and may have a significant impact on future redevelopment plans.

Councilmember Gutowsky asked how the perimeters of the zone districts are determined. Mounce replied zone districts are most frequently aligned with parcel boundaries.

Councilmember Gutowsky asked when the new zoning would go into effect. Mounce replied the Land Use Code changes, if approved on first and second reading, would go into effect ten days following second reading; therefore, the earliest the zone district could come to fruition is late August and parcels would still have to be rezoned into the new zone district after that, which would entail more planned outreach.

Councilmember Summers stated the zone district could be a nice fit for a new development, perhaps on a Land Bank parcel. He asked if forcing this zoning upon existing communities is going to preserve them longer. Mounce replied staff has looked at the topic of preservation zoning in other communities and noted other incentivization tools have also been examined.

Councilmember Pignataro stated she would support option A as manufactured housing fits into a portion of the affordable housing spectrum that is otherwise unfilled.

Councilmember Summers asked how increasing lot rents fit into affordability. Mounce replied the $600-$1,200 monthly lot rent is a range for the community and includes both lot rent and unit cost. Manufactured housing is similar in cost to the lower end of the affordable housing spectrum.

Councilmember Gorgol asked if this zoning would create a process in which residents can participate if the property owner seeks redevelopment. Mounce replied a rezoning process would give the opportunity for more participation and general awareness of proposals.

Councilmember Gorgol asked if having manufactured home zoning would increase the ability of having a resident-owned community. Mounce replied staff has examined that possibility and it could be a potential benefit.

Councilmember Cunniff noted a manufactured housing community was redeveloped in Fort Collins around eight years ago, and despite owners having mortgages on their units, there was no available space in other communities to move units. This change is about preservation and creating predictability around the process for residents. He would support option A for the preservation aspect.

Councilmember Gorgol made a motion, seconded by Councilmember Gutowsky, to adopt Ordinance No. 100, 2020, option A, on First Reading.
Councilmember Summers stated he could support preservation of existing communities, but stated he is more interested in what can be done moving forward. There is no data regarding whether this zoning change would lead to preservation and opposed placing extra restrictions on property rights.

Councilmember Gutowsky stated residents fear losing their homes based on feelings of uncertainty. Option A would provide some predictability to residents.

Councilmember Gorgol stated there is data about manufactured home community zoning leading to preservation. She discussed the uncertainty around manufactured housing ownership and this Ordinance will provide stability and predictability for residents. The process will allow all parties to equally participate; creates equity.

Councilmember Summers stated the dynamics of manufactured home communities is not being changed and is not an equity issue. Land ownership has never been a part of mobile home ownership. He agreed the housing option should be preserved and noted there are stronger ways to accomplish this if it is the desire of Council.

Mayor Troxell stated he would support the motion but noted there are no guarantees regarding land use. Preservation is important including having a strategy around a number of different affordable housing options.

Councilmember Summers stated he would support the motion as he believes in preservation; however, he expressed concern about limiting options for the future. He inquired if there is a different process between the two options. City Attorney Daggett replied the difference is that option B allows a wider variety of permitted uses for properties in the zone district. Mounce concurred and stated the processes are the same with both options.

(Secretary's Note: Council did not take any action on option B.)

| RESULT:   | ORDINANCE NO. 100, 2020, ADOPTED ON FIRST READING [UNANIMOUS] |
| MOVER:   | Emily Gorgol, District 6                                      |
| SECONDER:| Susan Gutowsky, District 1                                    |
| AYES:    | Pignataro, Gorgol, Gutowsky, Summers, Troxell, Cunniff        |
| ABSENT:  | Stephens                                                      |


The purpose of this item is to extend a moratorium, through December 30, 2020, upon the City’s acceptance of any application for development of any kind that, if granted, could result in the partial or total closing or reduction in capacity of any existing mobile home park, to address the issues and concerns identified in the recitals contained in Ordinance No. 099, 2019.

Ryan Mounce, City Planner, stated this item involves consideration of the extension of a moratorium currently in place regarding development of existing manufactured housing communities. Mounce discussed the history of the moratorium noting it was originally set to expire in August of 2020. Some of the work on the item will not be completed until after the expiration due to delays resulting from COVID-19. The revised timeline considers the Code adoption process for the residents' rights issues in the Municipal Code as well as the manufactured housing zone district occurring in the late summer with the opportunity to continue engagement with potential rezonings in the fall.
Mounce stated this item would contemplate extending the moratorium to December 30, 2020, to allow time for additional engagement opportunities and consider potential property rezonings.

Councilmember Gorgol made a motion, seconded by Councilmember Gutowsky, to adopt Ordinance No. 101, 2020, on First Reading.

Councilmember Summers stated he would be more comfortable with a two-month extension.

Mayor Troxell also supported a shorter moratorium extension.

Councilmember Pignataro asked why staff has recommended a four-month extension. Mounce replied it is primarily related to the fact that some of the consideration of rezonings might involve certain properties that the City would want to consider amending City Plan and neighborhood plans to facilitate. Those processes would involve some additional Planning and Zoning Board and Council action to implement prior to a rezoning taking place. Staff is prepared to bring forward these potential rezonings with appropriate outreach and engagement as soon as possible.

Councilmember Cunniff noted the moratorium could potentially be repealed early as appropriate.

| RESULT: | ORDINANCE NO. 101, 2020, ADOPTED [UNANIMOUS] |
| MOVER:  | Emily Gorgol, District 6                     |
| SECONDER: | Susan Gutowsky, District 1                  |
| AYES:    | Pignataro, Gorgol, Gutowsky, Summers, Troxell, Cunniff |
| ABSENT:  | Stephens                                    |

Motion to extend the meeting past 10:30 PM

Councilmember Cunniff made a motion, seconded by Councilmember Pignataro, to extend the meeting past 10:30 PM to consider such other business as may come before Council.

| RESULT: | ADOPTED [UNANIMOUS] |
| MOVER:  | Ross Cunniff, District 5 |
| SECONDER: | Julie Pignataro, District 2 |
| AYES:    | Pignataro, Gorgol, Gutowsky, Summers, Troxell, Cunniff |
| ABSENT:  | Stephens               |
CONSIDERATION OF CITIZEN-PULLED CONSENT ITEMS

17. **Second Reading of Ordinance No. 090, 2020, Designating the Woods-Gilkison-Dunn Property, 331 South Loomis Avenue, Fort Collins, Colorado, as a Fort Collins Landmark Pursuant to Chapter 14 of the Code of the City of Fort Collins.** (Adopted on Second Reading)

This Ordinance, unanimously adopted on First Reading on July 21, 2020, designates the Woods-Gilkison-Dunn Property located at 331 South Loomis Avenue as a Fort Collins Landmark. The property is eligible for recognition as a Landmark due to its significance to Fort Collins under Designation Standard 3, Design/Construction and their historic integrity. The property is owned by Housing Catalyst, which is seeking Landmark designation to resolve federal compliance requirements with the State Office of Archaeology and Historic Preservation under the National Historic Preservation Act. Landmarking will facilitate the intended sale of the properties out of the Housing Catalyst inventory.

Rich Stave stated he withdrew these items as he was expecting staff input on tax consequences of these items. There are 44 properties in the Housing Catalyst inventory that are being turned over to Elevation Community Land Trust and he questioned why these three properties are being treated differently. It may be in the best interest of the taxpayers to maximize the profit on this and turn it into group properties the City is trying to manage.

Councilmember Gutowsky requested an explanation of HUD's Section 18 disposition program. Kristin Fritz, Housing Catalyst, replied it is a program available to the Public Housing Program allowing housing authorities to either dispose or reposition their public housing if specific criteria are met. Public housing units can be sold and a family transferred out of the unit with a voucher assistance payment. Sales proceeds are then realized and leveraged into the creation of additional affordable housing in the community. In this scenario, Elevation Community Land Trust will be preserving the units as future affordable home ownership opportunities.

Councilmember Gutowsky asked how Housing Catalyst has come to own HUD homes. Fritz replied the Housing Catalyst has owned these properties since the early 1970's.

Councilmember Gutowsky asked if Elevation Community Land Trust will be rehabilitating the properties. Fritz replied the units are being sold at below market rate and Elevation will be putting in additional capital in order to set future affordable homeowners up for success.

Councilmember Gutowsky asked if the homes will ever be offered on the open market. Fritz replied the current plan is for a bulk sale to Elevation and there is no plan to place them on the open market.

Regarding Mr. Stave's question, Fritz stated the plan to sell to Elevation is part of Housing Catalyst’s mission to preserve the units as additional affordable housing in the community.

Councilmember Gorgol made a motion, seconded by Councilmember Pignataro, to adopt Ordinance No. 090, 2020, on Second Reading.
18. **Second Reading of Ordinance No. 091, 2020, Designating the Benton-Schultz Duplex Property, 1016-1018 Morgan Street, Fort Collins, Colorado, as a Fort Collins Landmark Pursuant to Chapter 14 of the Code of the City of Fort Collins. (Adopted on Second Reading)**

This item is a quasi-judicial matter and if it is considered on the discussion agenda, it will be considered in accordance with Section 1(f) of the Council’s Rules of Meeting Procedures adopted in Resolution 2019-064.

This Ordinance, unanimously adopted on First Reading on July 21, 2020, designates the Benton-Schultz Duplex, located at 1016-1018 Morgan Street, as a Fort Collins Landmark. The property is eligible for recognition as a Landmark due to its significance to Fort Collins under Designation Standard 3, Design/Construction and their historic integrity. The property is owned by Housing Catalyst, which is seeking Landmark designation to resolve federal compliance requirements with the State Office of Archaeology and Historic Preservation under the National Historic Preservation Act. Landmarking will facilitate the intended sale of the properties out of the Housing Catalyst inventory.

Rich Stave questioned the public transparency of transferring the properties and creating contingent sales with little financial information provided by Elevation Community Land Trust. Fritz clarified tonight's action is the process of identifying these houses as historic, which needs to occur due to the environmental review process triggered by future sales. A full review by HUD, which has yet to occur, includes the plan for any use of proceeds and provides full public information. Elevation Community Land Trust is a foundation-funded land trust that has many different sources of funding; its specific mission is to have 1,000 units made available for affordable home ownership in Colorado.

Councilmember Gorgol made a motion, seconded by Councilmember Pignataro, to adopt Ordinance No. 091, 2020, on Second Reading.

19. **Second Reading of Ordinance No. 092, 2020, Designating the Brawner-McArthur Property, 228 Whedbee Street, Fort Collins, Colorado, as a Fort Collins Landmark Pursuant to Chapter 14 of the Code of the City of Fort Collins. (Adopted on Second Reading)**

This item is a quasi-judicial matter and if it is considered on the discussion agenda, it will be considered in accordance with Section 1(f) of the Council’s Rules of Meeting Procedures adopted in Resolution 2019-064.

This Ordinance, unanimously adopted on First Reading on July 21, 2020, designates the Brawner-McArthur Property, located at 228 Whedbee Street, as a Fort Collins Landmark. The property is eligible for recognition as a Landmark due to its significance to Fort Collins under Designation Standard 3, Design/Construction and their historic integrity. The property is owned by Housing Catalyst, which is seeking Landmark designation to resolve federal compliance requirements with the State Office of Archaeology and Historic Preservation under the National Historic Preservation Act. Landmarking will facilitate the intended sale of the properties out of the Housing Catalyst inventory.
Rich Stave questioned whether this is the appropriate way to dispose of City-owned properties and suggested auctioning properties. He questioned how the public interest is best served if properties' values are not maximized.

Councilmember Summers stated the public interest is best served by having a partner that will renovate these buildings at a reasonable cost and get them into the hands of families who need affordable housing.

Councilmember Gorgol made a motion, seconded by Councilmember Pignataro, to adopt Ordinance No. 092, 2020, on Second Reading.

RESULT: ORDINANCE NO. 092, 2020, ADOPTED ON SECOND READING [UNANIMOUS]
MOVER: Emily Gorgol, District 6
SECONDER: Julie Pignataro, District 2
AYES: Pignataro, Gorgol, Gutowsky, Summers, Troxell, Cunniff
ABSENT: Stephens

- OTHER BUSINESS

Councilmember Cunniff stated there have been 37 applications for the vacant Planning and Zoning Board position. The allotted time frame for interviews is not adequate to interview all applicants. He proposed a process by which the Mayor and he each select six candidates which can be ratified by Council at next week's adjourned meeting for a short list of applicants to be interviewed.

Councilmember Pignataro suggested it could be helpful for a few additional Councilmembers to look through all the applications.

Councilmember Cunniff stated the decision to add or remove people from the short list would ultimately be in Council's hands, but allowing the liaisons to take a first pass could be helpful.

Councilmembers agreed to move forward in that fashion while providing all application materials to all Councilmembers.

A. Consideration of a motion to adjourn into executive session to discuss Broadband issues.

Councilmember Gorgol made a motion, seconded by Councilmember Pignataro, that Council enter 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 matter allowed under Colorado Law, as permitted under Article XX, Section 7(d) of the City Charter and Section 2-31(a)(5) of the City Code.

Rich Stave questioned what is being contemplated with this executive session and stated the work in his area has not been completed in a timely fashion nor does he know who is in charge.

Mayor Troxell stated a report will be coming out shortly.

(Secretary's Note: The Council went into executive session from 11:15 PM until 12:11 AM and Councilmember Summers left the meeting during the executive session.)
RESULT: ADOPTED [UNANIMOUS]
MOVER: Emily Gorgol, District 6
SECONDER: Julie Pignataro, District 2
AYES: Pignataro, Gorgol, Gutowsky, Summers, Troxell, Cunniff
ABSENT: Stephens

• ADJOURNMENT

Motion to adjourn to 6:00 PM on August 11, 2020.

Councilmember Cunniff made a motion, seconded by Councilmember Pignataro, to adjourn to 6:00 PM on August 11, 2020, to consider action regarding Planning and Zoning Board appointments and such other business as may come before the Council.

RESULT: ADOPTED [5 TO 0]
MOVER: Ross Cunniff, District 5
SECONDER: Julie Pignataro, District 2
AYES: Pignataro, Gorgol, Gutowsky, Troxell, Cunniff
ABSENT: Stephens
AWAY: Summers

The meeting adjourned at 12:14 AM.

Mayor

ATTEST:

City Clerk
AGENDA ITEM SUMMARY
City Council

AGENDA ITEM SUMMARY
City Council

September 1, 2020

STAFF

Erik Martin, Police Financial Analyst II
Jerrod Kinsman, Police Lieutenant
Chris Van Hall, Legal

SUBJECT

Second Reading of Ordinance No. 102, 2020, Appropriating Unanticipated Department of Justice Coronavirus Emergency Grant Revenue in the General Fund for Police Services.

EXECUTIVE SUMMARY

This Ordinance, unanimously adopted on First Reading on August 18, 2020, appropriates funds awarded by the Department of Justice (DOJ) for the formula grant FY 2020 Coronavirus Emergency Supplemental Funding Grant. This grant award of $100,818 will defray certain expenses the City has incurred responding to the COVID-19 Pandemic, which includes the purchase of personal protective equipment, cleaning supplies, and communication expenses along with overtime associated with the response.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

ATTACHMENTS

1. First Reading Agenda Item Summary, August 18, 2020 (w/o attachments) (PDF)
2. Ordinance No. 102, 2020 (PDF)
AGENDA ITEM SUMMARY                   August 18, 2020
City Council

STAFF

Erik Martin, Police Financial Analyst II
Jerrod Kinsman, Police Lieutenant
Chris Van Hall, Legal

SUBJECT

First Reading of Ordinance No. 102, 2020, Appropriating Unanticipated Department of Justice Coronavirus Emergency Grant Revenue in the General Fund for Police Services.

EXECUTIVE SUMMARY

The purpose of this item is to appropriate funds awarded by the Department of Justice (DOJ) for the formula grant FY 2020 Coronavirus Emergency Supplemental Funding Grant. This grant award of $100,818 will defray certain expenses the City has incurred responding to the COVID-19 Pandemic, which includes the purchase of personal protective equipment, cleaning supplies, and communication expenses along with overtime associated with the response.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION

The DOJ has a formula grant that is intended to help local governments prevent, prepare for and respond to the COVID-19 pandemic. The City has applied and has been awarded $100,818 as part of the formula award.

As a part of the City of Fort Collins’ response to the virus, the City increased the purchase of personal protective equipment (PPE) and cleaning supplies. The City also incurred Police Services overtime costs associated with the transition of a large share of the Police Services workforce to work remotely. Additionally, the City incurred costs providing security at the Northside Aztlan Community Center while the Center was functioning as an emergency shelter pursuant to City of Fort Collins Emergency Regulation 2020-02. Appropriation of these grant funds will fully cover those expenses.

CITY FINANCIAL IMPACTS

This appropriation would shift $100,818 in expenses associated with the City’s COVID-19 preparation and response from the General Fund to the DOJ grant. This grant does not require any matching funds.
ORDINANCE NO. 102, 2020
OF THE COUNCIL OF THE CITY OF FORT COLLINS
APPROPRIATING UNANTICIPATED DEPARTMENT OF JUSTICE CORONAVIRUS EMERGENCY GRANT REVENUE IN THE GENERAL FUND FOR POLICE SERVICES

WHEREAS, the City has expended funds to prevent, prepare for and respond to the COVID-19 pandemic; and

WHEREAS, the City previously applied for a Department of Justice ("DOJ") grant titled FY 2020 Coronavirus Emergency Supplemental Funding Grant (the “Grant”) that is meant to reimburse costs the City has spent to prevent, prepare for and respond to the COVID-19 pandemic; and

WHEREAS, the DOJ has awarded the City $100,818 under the Grant; and

WHEREAS, the Grant funds are anticipated to defray costs the City previously incurred from purchasing personal protective equipment (PPE), cleaning supplies, overtime costs associated with the transition of a large share of the Police Services workforce to remote work and costs associated with providing security at the Northside Aztlán Community Center while the Center was functioning as an emergency shelter pursuant to City of Fort Collins Emergency Regulation 2020-02; and

WHEREAS, this appropriation benefits public health, safety and welfare of the citizens of Fort Collins and serves the public purpose of preventing, preparing for and responding to COVID-19 pandemic; and

WHEREAS, Article V, Section 9, of the City Charter permits the City Council to make supplemental appropriations by ordinance at any time during the fiscal year, provided that the total amount of such supplemental appropriations, in combination with all previous appropriations for that fiscal year, does not exceed the current estimate of actual and anticipated revenues to be received during the fiscal year; and

WHEREAS, the City Manager has recommended the appropriation described herein and determined that this appropriation is available and previously unappropriated from the General Fund and will not cause the total amount appropriated in the General Fund to exceed the current estimate of actual and anticipated revenues to be received in that fund during any fiscal year.

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

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

Section 2. That there is hereby appropriated from unanticipated grant revenue in the General Fund the sum of ONE HUNDRED THOUSAND EIGHT HUNDRED EIGHTEEN
DOLLARS ($100,818) for expenditure in the General Fund for the Fort Collins Police Services for expenses related to the COVID-19 preparation and response.

Introduced, considered favorably on first reading, and ordered published this 18th day of August, A.D. 2020, and to be presented for final passage on the 1st day of September, A.D. 2020.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 1st day of September, A.D. 2020.

Mayor

ATTEST:

City Clerk
AGENDA ITEM SUMMARY
City Council

AGENDA ITEM SUMMARY
City Council

STAFF
Nina Bodenhamer, City Give Director
Bob Adams, Recreation Director
Ingrid Decker, Legal

SUBJECT
Second Reading of Ordinance No. 103, 2020, Appropriating Unanticipated Philanthropic Revenue Received by City Give from The Friends of the Gardens on Spring Creek for Transfer to The Gardens on Spring Creek.

EXECUTIVE SUMMARY
This Ordinance, which was unanimously adopted on First Reading on August 18, 2020, appropriates $75,000 in philanthropic revenue in the General Fund for transfer to The Gardens on Spring Creek to support general operating costs as designated by the donor, The Friends of the Gardens on Spring Creek. The Friends of the Gardens on Spring Creek is an independent not-for-profit 501(c)(3) organization established in 1988 whose mission is to support The Gardens through advocacy, community engagement, volunteerism and fundraising.

STAFF RECOMMENDATION
Staff recommends adoption of the Ordinance on Second Reading.

ATTACHMENTS
1. First Reading Agenda Item Summary, August 18, 2020 (w/o attachments)  (PDF)
2. Ordinance No. 103, 2020  (PDF)
AGENDA ITEM SUMMARY
City Council
August 18, 2020

STAFF

Nina Bodenhamer, City Give Director
Michelle Provaznik, Director, Gardens on Spring Creek
Ryan Malarky, Legal

SUBJECT

First Reading of Ordinance No. 103, 2020, Appropriating Unanticipated Philanthropic Revenue Received by City Give from The Friends of the Gardens on Spring Creek for Transfer to The Gardens on Spring Creek.

EXECUTIVE SUMMARY

The purpose of this item is to appropriate $75,000 in philanthropic revenue in the General Fund for transfer to The Gardens on Spring Creek to support general operating costs as designated by the donor, The Friends of the Gardens on Spring Creek. The Friends of the Gardens on Spring Creek is an independent not-for-profit 501(c)(3) organization established in 1988 whose mission is to support The Gardens through advocacy, community engagement, volunteerism and fundraising.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION

The City values the generosity and passion of nonprofit partners such as The Friends of the Gardens that provide valuable assistance in public outreach, fundraising, and support for the City’s mission. In recognition of their commitment, the City pledges the funds raised by The Friends of the Gardens will be managed and properly expended in the same manner as if the funds were raised by the City itself.

For over 30 years, The Friends of the Gardens have fostered community support for the services and programs of The Gardens through stewardship, time, passion, fundraising, membership programs, and advocacy. Their mission is to cultivate a world-class botanic garden through fundraising and advocacy, and they have awarded $75,000 in philanthropic support to general operations of The Gardens.

The City Manager recommends the appropriation described herein and determined that this appropriation is available and previously unappropriated from the General Fund and will not cause the total amount appropriated in the General Fund to exceed the current estimate of actual and anticipated revenues to be received in the General Fund during this fiscal year. He is also recommending the transfer described herein and has determined that the purpose for which the transferred funds are to be expended remains unchanged.

CITY FINANCIAL IMPACTS

This Ordinance will appropriate $75,000 of unanticipated philanthropic revenue for transfer to The Gardens on Spring Creek.

The funds have been received and accepted per City Give Administrative and Financial Policy.
PUBLIC OUTREACH

With a membership of more than 2,000, The Friends of the Gardens on Spring Creek is an independent not-for-profit 501(c)(3) organization established in 1988 whose mission is to support The Gardens through advocacy, community engagement, volunteerism and fundraising.
ORDINANCE NO. 103, 2020
OF THE COUNCIL OF THE CITY OF FORT COLLINS
APPROPRIATING UNANTICIPATED PHILANTHROPIC REVENUE RECEIVED BY CITY GIVE FROM THE FRIENDS OF THE GARDENS ON SPRING CREEK FOR TRANSFER TO THE GARDENS ON SPRING CREEK

WHEREAS, The Friends of the Gardens on Spring Creek (“The Friends”) is an independent, not-for-profit 501(c)(3) organization established in 1988 whose mission is to support the general operating costs of the Gardens on Spring Creek through advocacy, community engagement, volunteerism, and fundraising; and

WHEREAS, The Friends has raised $75,000, which it desires to donate to the City through City Give to support the general operations of the Gardens on Spring Creek; and

WHEREAS, the City desires to accept this philanthropic donation and pledges to manage and expend such funds for the benefit of the Gardens on Spring Creek as though the funds were raised by the City itself; and

WHEREAS, this appropriation benefits public health, safety and welfare of the citizens of Fort Collins and serves the public purpose of funding the Gardens on Spring Creek; and

WHEREAS, Article V, Section 9, of the City Charter permits the City Council to make supplemental appropriations by ordinance at any time during the fiscal year, provided that the total amount of such supplemental appropriations, in combination with all previous appropriations for that fiscal year, does not exceed the current estimate of actual and anticipated revenues to be received during the fiscal year; and

WHEREAS, the City Manager has recommended the appropriation described herein and determined that these appropriations are available and previously unappropriated from the General Fund and will not cause the total amount appropriated in the General Fund to exceed the current estimate of actual and anticipated revenues to be received in these funds during the fiscal year; and

WHEREAS, Article V, Section 10, of the City Charter authorizes the City Council to transfer by ordinance any unexpended and unencumbered appropriated amount or portion thereof from one fund or capital project account to another fund or capital project account, provided that the purpose for which the transferred funds are to be expended remains unchanged; and

WHEREAS, the City Manager has recommended the transfer described herein and determined that the purpose for which the transferred funds are to be expended remains unchanged.

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

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.
Section 2. That there is hereby appropriated from unanticipated philanthropic revenue in the General Fund the sum of SEVENTY-FIVE THOUSAND DOLLARS ($75,000) for transfer to the Gardens on Spring Creek within the General Fund and appropriated therein.

Introduced, considered favorably on first reading, and ordered published this 18th day of August, A.D. 2020, and to be presented for final passage on the 1st day of September, A.D. 2020.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 1st day of September, A.D. 2020.

Mayor

ATTEST:

City Clerk
AGENDA ITEM SUMMARY
City Council

September 1, 2020

STAFF

Nina Bodenhamer, City Give Director
Michelle Provaznik, Director, Gardens on Spring Creek
Ryan Malarky, Legal

SUBJECT

Second Reading of Ordinance No. 104, 2020, Appropriating Unanticipated Philanthropic Revenue Received by City Give from the Urban Agriculture Resilience Program through The Friends of the Gardens on Spring Creek for The Gardens on Spring Creek.

EXECUTIVE SUMMARY

This Ordinance, unanimously adopted on First Reading on August 18, 2020, appropriates $15,000 in philanthropic revenue in the General Fund for transfer to The Gardens on Spring Creek. Facilitated by The Friends of the Gardens on Spring Creek, the funding award is made from the Urban Agriculture Resilience Program for the designated purpose of urban agriculture and community gardening.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

ATTACHMENTS

1. First Reading Agenda Item Summary, August 18, 2020 (w/o attachments) (PDF)
2. Ordinance No. 104, 2020 (PDF)
AGENDA ITEM SUMMARY
City Council

AGENDA ITEM SUMMARY
August 18, 2020

STAFF

Nina Bodenhamer, City Give Director
Michelle Provaznik, Director, Gardens on Spring Creek
Ryan Malarky, Legal

SUBJECT

First Reading of Ordinance No. 104, 2020, Appropriating Unanticipated Philanthropic Revenue Received by City Give from the Urban Agriculture Resilience Program through The Friends of the Gardens on Spring Creek for The Gardens on Spring Creek.

EXECUTIVE SUMMARY

The purpose of this item is to appropriate $15,000 in philanthropic revenue in the General Fund for transfer to The Gardens on Spring Creek. Facilitated by The Friends of the Gardens on Spring Creek, the funding award is made from the Urban Agriculture Resilience Program for the designated purpose of urban agriculture and community gardening.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION

The City values the generosity and passion of nonprofit partners such as The Friends of the Gardens that provide valuable assistance in public outreach, fundraising, and support for the City’s mission. In recognition of their commitment, the City pledges the funds raised by The Friends of the Gardens will be managed and properly expended in the same manner as if the funds were raised by the City itself.

For over 30 years, The Friends of the Gardens have fostered community support for the services and programs of The Gardens through stewardship, time, passion, fundraising, membership programs, and advocacy. Their mission is to cultivate a world-class botanic garden through fundraising and advocacy. The Friends of the Gardens solicited the $15,000 in philanthropic support from The Urban Agriculture Resilience Program for The Gardens on Spring Creek.

The Urban Agriculture Resilience Program is designed to prevent shortfalls, promote resilience, and grow capacity for established programs across the public gardens community. The program is a partnership between the United States Botanic Garden and the American Public Gardens Association to deliver immediate support to established urban agriculture, community gardening, and other food-growing programs at public gardens affected by the COVID-19 pandemic.

The City Manager recommends the appropriation described herein and determined that this appropriation is available and previously unappropriated from the General Fund and will not cause the total amount appropriated in the General Fund to exceed the current estimate of actual and anticipated revenues to be received in the General Fund during this fiscal year. He is also recommending the transfer described herein and has determined that the purpose for which the transferred funds are to be expended remains unchanged.
CITY FINANCIAL IMPACTS

This Ordinance will appropriate $15,000 of unanticipated philanthropic revenue for transfer to The Gardens on Spring Creek for the designated purpose of supporting urban agriculture and community gardens. The funds have been received and accepted per City Give Administrative and Financial Policy.
ORDINANCE NO. 104, 2020
OF THE COUNCIL OF THE CITY OF FORT COLLINS
APPROPRIATING UNANTICIPATED PHILANTHROPIC REVENUE RECEIVED BY
CITY GIVE FROM THE URBAN AGRICULTURE RESILIENCE PROGRAM THROUGH
THE FRIENDS OF THE GARDENS ON SPRING CREEK FOR
TRANSFER TO THE GARDENS ON SPRING CREEK

WHEREAS, The Friends of the Gardens on Spring Creek ("The Friends") is an
independent, not-for-profit 501(c)(3) organization established in 1988 whose mission is to support
the general operating costs of the Gardens on Spring Creek through advocacy, community
engagement, volunteerism, and fundraising; and

WHEREAS, the United States Botanic Garden and the American Public Gardens
Association have partnered to create the Urban Agriculture Resilience Program (the “Program”),
which supports established urban agriculture, community gardening, and other food-growing
programs at public gardens affected by the COVID-19 pandemic; and

WHEREAS, The Friends has solicited and been awarded $15,000 in philanthropic support
from the Program for the benefit of the Gardens on Spring Creek, which The Friends desires to
donate to the City through City Give to support the Gardens on Spring Creek for the designated
purpose of supporting urban agriculture and community gardens; and

WHEREAS, the City desires to accept this philanthropic donation and pledges to manage
and expend such funds for the benefit of the Gardens on Spring Creek as though the funds were
raised by the City itself; and

WHEREAS, this appropriation benefits public health, safety and welfare of the citizens of
Fort Collins and serves the public purpose of funding the Gardens on Spring Creek; and

WHEREAS, Article V, Section 9, of the City Charter permits the City Council to make
supplemental appropriations by ordinance at any time during the fiscal year, provided that the total
amount of such supplemental appropriations, in combination with all previous appropriations for
that fiscal year, does not exceed the current estimate of actual and anticipated revenues to be
received during the fiscal year; and

WHEREAS, the City Manager has recommended the appropriation described herein and
determined that these appropriations are available and previously unappropriated from the General
Fund and will not cause the total amount appropriated in the General Fund to exceed the current
estimate of actual and anticipated revenues to be received in these funds during the fiscal year; and

WHEREAS, Article V, Section 10, of the City Charter authorizes the City Council to
transfer by ordinance any unexpended and unencumbered appropriated amount or portion thereof
from one fund or capital project account to another fund or capital project account, provided that
the purpose for which the transferred funds are to be expended remains unchanged; and

WHEREAS, the City Manager has recommended the transfer described herein and
determined that the purpose for which the transferred funds are to be expended remains unchanged.

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

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

Section 2. That there is hereby appropriated from unanticipated philanthropic revenue in the General Fund the sum of FIFTEEN THOUSAND DOLLARS ($15,000) for transfer to the Gardens on Spring Creek within the General Fund and appropriated therein.

Introduced, considered favorably on first reading, and ordered published this 18th day of August, A.D. 2020, and to be presented for final passage on the 1st day of September, A.D. 2020.


Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 1st day of September, A.D. 2020.


Mayor

ATTEST:

City Clerk
AGENDA ITEM SUMMARY

City Council

September 1, 2020

STAFF

Nina Bodenhamer, City Give Director
Bob Adams, Recreation Director
Ingrid Decker, Legal

SUBJECT

Second Reading of Ordinance No. 105, 2020, Appropriating Unanticipated Philanthropic Revenue Received by City Give for Transfer to the Recreation Fund for the Fort Collins Senior Center.

EXECUTIVE SUMMARY

This Ordinance, unanimously adopted on First Reading on August 18, 2020, appropriates $66,652 in philanthropic revenue in the General Fund for transfer to the Fort Collins Senior Center in the Recreation Fund for support of general operations. The charitable funds are the disbursement of revenue from a Designated Endowment held by the Community Foundation of Northern Colorado to benefit the Fort Collins Senior Center.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

ATTACHMENTS

1. First Reading Agenda Item Summary, August 18, 2020 (w/o attachments) (PDF)
2. Ordinance No. 105, 2020 (PDF)
AGENDA ITEM SUMMARY
August 18, 2020

STAFF
Nina Bodenhamer, City Give Director
Bob Adams, Recreation Director
Ingrid Decker, Legal

SUBJECT
First Reading of Ordinance No. 105, 2020, Appropriating Unanticipated Philanthropic Revenue Received by City Give for Transfer to the Recreation Fund for the Fort Collins Senior Center.

EXECUTIVE SUMMARY
The purpose of this item is to appropriate $66,652 in philanthropic revenue in the General Fund for transfer to the Fort Collins Senior Center in the Recreation Fund for support of general operations. The charitable funds are the disbursement of revenue from a Designated Endowment held by the Community Foundation of Northern Colorado to benefit the Fort Collins Senior Center.

STAFF RECOMMENDATION
Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION
A Designated Endowment was established at the Community Foundation of Northern Colorado in 1989 by community advocates to "provide funds for the benefit of the new Senior Center." As a Designated Endowed Fund, with a principal balance of approximately $500,000.00, disbursements of the fund’s revenue will continue in perpetuity.

The Fort Collins Senior Center provides adults an opportunity to access and engage in recreational opportunities, stay active and socialize. In 2019, the Fort Collins Senior Center had over 300,000 visitors. Currently operating with modified hours and reduced programming availability, the Senior Center’s is open to all adults but specializes in programming for adults 50 years of age and up. In 2016, the Fort Collins Senior Center was accredited by the National Institute of Senior Centers (NISC).

The City Manager recommends the appropriation described herein and determined that this appropriation is available and previously unappropriated from the General Fund and will not cause the total amount appropriated in the General Fund to exceed the current estimate of actual and anticipated revenues to be received in the General Fund during this fiscal year. He also recommends the transfer described herein and has determined that the purpose for which the transferred funds are to be expended remains unchanged.

CITY FINANCIAL IMPACTS
This Ordinance would appropriate $66,652 of unanticipated philanthropic revenue in the General Fund for transfer to the Fort Collins Senior Center in the Recreation Fund for general operating support.

The funds have been received and accepted per City Give Administrative and Financial Policy.
ORDINANCE NO. 105, 2020
OF THE COUNCIL OF THE CITY OF FORT COLLINS
APPROPRIATING UNANTICIPATED PHILANTHROPIC REVENUE RECEIVED
BY CITY GIVE FOR TRANSFER TO THE RECREATION FUND FOR THE
FORT COLLINS SENIOR CENTER

WHEREAS, the Fort Collins Senior Center provides adults, especially those over 50, an
opportunity to access and engage in recreational opportunities, stay active and socialize, serving
over 300,000 visitors in 2019; and

WHEREAS, in 1989 a Designated Endowed Fund was established at the Community
Foundation of Northern Colorado (the “Endowed Fund”) to provide funds for the benefit of the
Senior Center; and

WHEREAS, City Give has received a disbursement of $66,652 in revenue from the
Endowed Fund, and City staff is asking the City Council to appropriate such revenue to be spent
on general operating support for the Senior Center; and

WHEREAS, this appropriation benefits public health, safety and welfare of the citizens of
Fort Collins and serves the public purpose of providing for the ongoing operation of a public
recreation facility; and

WHEREAS, Article V, Section 9, of the City Charter permits the City Council to make
supplemental appropriations by ordinance at any time during the fiscal year, provided that the total
amount of such supplemental appropriations, in combination with all previous appropriations for
that fiscal year, does not exceed the current estimate of actual and anticipated revenues to be
received during the fiscal year; and

WHEREAS, the City Manager has recommended the appropriation described herein and
determined that these appropriations are available and previously unappropriated from the General
Fund and will not cause the total amount appropriated in the General Fund to exceed the current
estimate of actual and anticipated revenues to be received in these funds during the fiscal year; and

WHEREAS, Article V, Section 10, of the City Charter authorizes the City Council to
transfer by ordinance any unexpended and unencumbered appropriated amount or portion thereof
from one fund or capital project account to another fund or capital project account, provided that
the purpose for which the transferred funds are to be expended remains unchanged; and

WHEREAS, the City Manager has recommended the transfer described herein and
determined that the purpose for which the transferred funds are to be expended remains unchanged.

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

Section 1.  That the City Council hereby makes and adopts the determinations and
findings contained in the recitals set forth above.
Section 2. That there is hereby appropriated from unanticipated philanthropic revenue in the General Fund the sum of SIXTY-SIX THOUSAND SIX HUNDRED FIFTY-TWO DOLLARS ($66,652) for transfer to the Recreation Fund and appropriated therein for the Fort Collins Senior Center.

Introduced, considered favorably on first reading, and ordered published this 18th day of August, A.D. 2020, and to be presented for final passage on the 1st day of September, A.D. 2020.

__________________________________
Mayor

ATTEST:

_______________________________
City Clerk

Passed and adopted on final reading on the 1st day of September, A.D. 2020.

__________________________________
Mayor

ATTEST:

_______________________________
City Clerk
AGENDA ITEM SUMMARY  
City Council  
AGENDA ITEM SUMMARY  
September 1, 2020  

STAFF  
Nicole Hahn, Civil Engineer II  
Chad Crager, PDT Interim Deputy Director  
Dan Woodward, Civil Engineer I  
Tommy Brennan, Senior Real Estate Specialist  
Ryan Malarky, Legal  

SUBJECT  
Second Reading of Ordinance No. 106, 2020, Authorizing the Acquisition by Eminent Domain Proceedings of Certain Lands Necessary to Construct Public Improvements for the Timberline Capital Improvement Project - Stetson Creek Road to Trilby Road.  

EXECUTIVE SUMMARY  
This Ordinance, which was unanimously adopted on First Reading on August 18, 2020, requests Council authorization for the use of eminent domain, if deemed necessary, to acquire property interests needed for construction improvements for the Project.  

STAFF RECOMMENDATION  
Staff recommends adoption of the Ordinance on Second Reading.  

ATTACHMENTS  
1. First Reading Agenda Item Summary, August 18, 2020 (w/o attachments)  
2. Ordinance No. 106, 2020
AGENDA ITEM SUMMARY
City Council
August 18, 2020

STAFF
Nicole Hahn, Civil Engineer II
Chad Crager, PDT Interim Deputy Director
Dan Woodward, Civil Engineer I
Tommy Brennan, Senior Real Estate Specialist
Ryan Malarky, Legal

SUBJECT
First Reading of Ordinance No. 106, 2020, Authorizing the Acquisition by Eminent Domain Proceedings of Certain Lands Necessary to Construct Public Improvements for the Timberline Capital Improvement Project - Stetson Creek Road to Trilby Road.

EXECUTIVE SUMMARY
The purpose of this item is to request Council to authorize the use of eminent domain, if deemed necessary, to acquire property interests needed for construction improvements for the Project.

STAFF RECOMMENDATION
Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION
Timberline Road is a major thoroughfare for Fort Collins residents, and serves as a significant regional connection for Northern Colorado communities. This area has undergone significant development in the last decade and the existing two-lane road infrastructure in the area has reached capacity and experiences significant congestion that needs to be addressed to enhance vehicular safety along the corridor. Timberline Road is identified as a 4-lane arterial road on the Master Street Plan. Completing this project will enhance safety by completing bike and pedestrian connections through the corridor while improving overall safety, capacity, and mobility.

Design of the roadway and sidewalks is currently underway. Roadway improvements are anticipated to include widening the roadway to a four-lane complete street section with median, sidewalks, and bicycle facilities and is tentatively scheduled for construction in the spring of 2021.

To construct the improvements, the City will need to acquire certain property interests. The acquisitions include right-of-way, permanent easements, and temporary easements from eighteen property owners. Since the Project is partially funded by federal grants, aspects of the Project, including property acquisitions, must comply with procedures for federally-funded projects. The acquisitions for this Project will conform to the provisions of the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970 as Amended (Public Law 91-646). In accordance with these regulations, the City must inform property owners about the possible use of eminent domain and their rights pursuant to Colorado statute in an official Notice of Intent Letter. The authorization from Council is needed prior to sending this information to property owners. The Notice of Intent Letter is the first official step in the acquisition phase and happens prior to the appraisals. Staff intends to negotiate in good faith with the affected owners and is optimistic that all property negotiations can be completed.
prior to the start of the Project. Staff is requesting authorization to use eminent domain for all property acquisitions for the Project, to be used only if such action is deemed necessary.

Staff has begun meeting with the affected property owners to discuss the Project and the impacts to their property. At those meetings, the property owners were notified that staff would be requesting authorization to use eminent domain to acquire necessary property interests, if needed. Staff received no objections from property owners to this proposed request. Affected property owners were notified by certified mail of this request to Council for authorization to use eminent domain prior to the First Reading of this Ordinance.

How and When City Staff Uses Eminent Domain

When staff is planning a project, they consider the amount of land required and whether they will need to acquire private property even if an agreement with the property owner to purchase the land is not reached. If an acquisition is necessary, staff requests Council to authorize the use eminent domain (condemnation) if necessary. Once an ordinance is adopted the team continues to coordinate with impacted property owners to finalize the project plans. Once plans are finalized, the City sends the property owner a Notice of Intent to Acquire letter by certified mail. The letter explains what the City needs for the project. Then the City, and sometimes the property owner, get appraisal of the property to determine its fair market value. The City then makes the owner an offer for the property needed based on fair market value. The City and the property owner negotiate to reach an agreement to buy the needed property interests. If an agreement cannot be reached, the City may file an eminent domain case in court, if necessary. The court then decides what the City must pay for the property it needs. In most cases, the City and the property owner reach agreement before a case gets to that point.

Staff recommends that Council authorize the use of eminent domain for this project to provide a fair and equitable process that will allow the City to meet project design and construction deadlines while still ensuring all property owners are fairly compensated for the property rights acquired by the City. Condemnation will only be used as necessary if the City is unable to reach an agreement with a property owner through good-faith negotiations.

Obtaining eminent domain authority early in the project will:

- Allow staff to develop the project timeline with more certainty.
- Help keep a planned property acquisition schedule, reducing the risk and cost of unexpected future delays.
- Ensure consistent messaging to affected property owners.

CITY FINANCIAL IMPACTS

This action will not authorize any new funding for the project but will only authorize acquisition of the identified parcels. Additional Colorado Department of Transportation (CDOT) grant funding is anticipated, and staff will bring this grant funding before Council for approval and appropriation upon receipt of an award letter. As development continues to move forward along the corridor, additional Transportation Capital Expansion Fee dollars are anticipated to be brought before Council for appropriation.

BOARD / COMMISSION RECOMMENDATION

City staff has presented the project to the Transportation Board and Bicycle Advisory Committee during proceedings in June. (Attachment 2 and 3)

PUBLIC OUTREACH

City staff has developed a comprehensive Communication Plan to reach residents, property owners, business owners, and other stakeholders. Current outreach efforts have included meetings with impacted property owners, neighborhood meetings, and a detailed project website. Future efforts will include additional property owner meetings and public open house meetings.
ATTACHMENTS

1. Area Map  (PDF)
2. Transportation Board Minutes July 2020 (Excerpt)  (PDF)
3. Bicycle Advisory Committee Minutes July 2020 (Excerpt)  (PDF)
WHEREAS, the City is in the process of planning improvements to Timberline Road from Stetson Creek Road to Trilby Road including roadway improvements and bicycle and pedestrian connections (the “Project”); and

WHEREAS, the Project is necessary to address increased use of the existing two-lane roadway on Timberline Road, which has resulted in the infrastructure reaching capacity, leading to significant congestion and increased vehicular crash rates; and

WHEREAS, the Project is anticipated to include widening of the roadway to a four-lane complete street section with median, sidewalks, and bicycle facilities; and

WHEREAS, to construct the Project, the City will need to acquire certain property rights, from eighteen property owners, including right-of-way, permanent easements, and temporary easements as described on Exhibits “A” through “Y”, attached hereto and incorporated herein by this reference (the “Property Rights”); and

WHEREAS, the City will negotiate in good faith for the acquisition of the Property Rights from the owners thereof; and

WHEREAS, the acquisition of the Property Rights is desirable and necessary for the construction of the Project, is in the City’s best interest, and enhances public health, safety, and welfare because it will allow for the construction of needed public infrastructure within the City; and

WHEREAS, the acquisition of the Property Rights may, by law, be accomplished through eminent domain.

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

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

Section 3. That the City Council hereby authorizes the City Attorney and other appropriate officials of the City to acquire the Property Rights for the City by eminent domain proceedings.
Section 4. The City Council further finds that, in the event acquisition by eminent domain of the Property Rights or any of them is commenced, immediate possession is necessary for the public health, safety and welfare.

Introduced, considered favorably on first reading, and ordered published this 18th day of August, A.D. 2020, and to be presented for final passage on the 1st day of September, A.D. 2020.

__________________________________
Mayor

ATTEST:

__________________________________
City Clerk

Passed and adopted on final reading on the 1st day of September, A.D. 2020.

__________________________________
Mayor

ATTEST:

__________________________________
City Clerk
DESCRIPTION OF A TRACT OF LAND TO BE CONVEYED TO THE CITY OF FORT COLLINS
(1900 E. TRILBY)

A TRACT OF LAND LOCATED IN THE SOUTHEAST QUARTER OF SECTION 7, TOWNSHIP 6 NORTH, RANGE 68 WEST OF THE SIXTH P.M.; COUNTY OF LARIMER, STATE OF COLORADO; BEING A PORTION OF LOT 1, HAHN ACRES SUBDIVISION; AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 7, AND CONSIDERING THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 7 TO BEAR N00°06'04"E, BASED UPON GPS OBSERVATIONS AND THE CITY OF FORT COLLINS COORDINATE SYSTEM, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO;

THENCE N85°52'13"W, A DISTANCE OF 805.95 FEET TO THE POINT OF BEGINNING;

THENCE N89°08'23"E, A DISTANCE OF 721.52 FEET;
THENCE N71°20'44"E, A DISTANCE OF 30.43 FEET;
THENCE N00°06'04"E, A DISTANCE OF 458.91 FEET;
THENCE S89°53'56"E, A DISTANCE OF 3.61 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF SOUTH TIMBERLINE ROAD;
THENCE ALONG SAID WESTERLY RIGHT-OF-WAY LINE, AND ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF EAST TRILBY ROAD THE FOLLOWING THREE (3) COURSES:
  1. S00°06'04"W, A DISTANCE OF 463.57 FEET;
  2. 38.85 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 89°02'19", AND A CHORD WHICH BEARS S44°37'14"W A DISTANCE OF 35.06 FEET;
  3. S89°08'23"W, A DISTANCE OF 729.03 FEET;
THENCE N00°51'37"W, A DISTANCE OF 20.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 16,773 SQUARE FEET (0.385 ACRES), MORE OR LESS, AND BEING SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD OR THAT NOW EXIST ON THE GROUND.
DESCRIPTION OF A TEMPORARY CONSTRUCTION EASEMENT TO BE CONVEYED TO THE CITY OF FORT COLLINS
(1900 E. TRILBY ROAD)

A TRACT OF LAND TO BE CONVEYED AS A TEMPORARY CONSTRUCTION EASEMENT, LOCATED IN THE SOUTHEAST QUARTER OF SECTION 7, TOWNSHIP 6 NORTH, RANGE 68 WEST OF THE SIXTH P.M.; COUNTY OF LARIMER, STATE OF COLORADO; BEING LOCATED WITHIN LOT 1, HAHN ACRES SUBDIVISION; AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 7, AND CONSIDERING THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 7 TO BEAR N00°06'04"E, BASED UPON GPS OBSERVATIONS AND THE CITY OF FORT COLLINS COORDINATE SYSTEM, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO;

THENCE N85°52'13"W, A DISTANCE OF 805.95 FEET TO THE POINT OF BEGINNING;

THENCE N00°51'37"W, A DISTANCE OF 10.00 FEET;
THENCE N89°08'23"E, A DISTANCE OF 721.66 FEET;
THENCE N00°03'40"W, A DISTANCE OF 344.36 FEET;
THENCE N01°42'56"E, A DISTANCE OF 201.89 FEET TO A POINT ON THE NORTHERLY BOUNDARY OF SAID LOT 1;
THENCE ALONG SAID NORTHERLY BOUNDARY, S89°53'56"E, A DISTANCE OF 27.74 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF SOUTH TIMBERLINE ROAD;
THENCE ALONG SAID WESTERLY RIGHT-OF-WAY LINE, S00°06'04"W, A DISTANCE OF 87.48 FEET;
THENCE N89°53'56"W, A DISTANCE OF 3.61 FEET;
THENCE S00°06'04"W, A DISTANCE OF 458.91 FEET;
THENCE S71°20'44"W, A DISTANCE OF 30.43 FEET;
THENCE S89°08'23"W, A DISTANCE OF 721.52 FEET TO THE POINT OF BEGINNING.

CONTAINING 23,221 SQUARE FEET (0.533 ACRES), MORE OR LESS, AND BEING SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD OR THAT NOW EXIST ON THE GROUND.
DESCRIPTION OF A TEMPORARY CONSTRUCTION EASEMENT
to be conveyed to the City of Fort Collins
(2104 Kechter Rd. and 5536 S. Timberline Rd.)

TWO TRACTS OF LAND TO BE CONVEYED AS TEMPORARY CONSTRUCTION
EASEMENTS, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 5,
township 6 north, range 68 west of the sixth p.m.; city of Fort
Collins, county of Larimer, state of Colorado; being located
within lots 1 and 2 of the kingdom hall of Jehovah’s Witnesses
Subdivision; and being more particularly described as follows:

CONSIDERING THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID
SECTION 5 TO BEAR N00°12'29"W, BASED UPON GPS OBSERVATIONS AND
THE CITY OF FORT COLLINS COORDINATE SYSTEM, WITH ALL BEARINGS
CONTAINED HEREIN RELATIVE THERETO;

TRACT A:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 5;

THENCE N59°56'27"E, A DISTANCE OF 119.61 FEET TO THE POINT OF
BEGINNING;

THENCE S00°30'14"E, A DISTANCE OF 5.00 FEET TO A POINT ON THE
NORTHERLY RIGHT-OF-WAY LINE OF KECHTER ROAD;
THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, S89°29'46"W, A
DISTANCE OF 25.00 FEET TO ITS INTERSECTION WITH THE EASTERLY
RIGHT-OF-WAY LINE OF SOUTH TIMBERLINE ROAD;
THENCE ALONG SAID EASTERLY RIGHT-OF-WAY LINE, N00°12'29"W, A
DISTANCE OF 25.00 FEET;
THENCE N89°47'31"E, A DISTANCE OF 5.00 FEET;
THENCE S00°12'29"E, A DISTANCE OF 19.98 FEET;
THENCE N89°29'46"E, A DISTANCE OF 19.98 FEET TO THE POINT OF
BEGINNING.

CONTAINING 225 SQUARE FEET (0.005 ACRES), MORE OR LESS, AND BEING
SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD OR THAT
NOW EXIST ON THE GROUND.

TRACT B:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 5;

THENCE N09°50'29"E, A DISTANCE OF 508.25 FEET TO THE POINT OF
BEGINNING, SAID POINT BEING ON THE NORTHERLY BOUNDARY OF SAID
LOT 2;

THENCE S00°12'29"E, A DISTANCE OF 117.76 FEET;
THENCE S89°47'31"W, A DISTANCE OF 9.92 FEET TO A POINT ON THE
EASTERLY RIGHT-OF-WAY LINE OF SOUTH TIMBERLINE ROAD; THENCE ALONG SAID EASTERLY RIGHT-OF-WAY LINE, N00°12'29"W, A DISTANCE OF 117.71 FEET TO THE NORTHWEST CORNER OF SAID LOT 2; THENCE ALONG THE NORTHERLY BOUNDARY OF SAID LOT 2, N89°29'44"E, A DISTANCE OF 9.92 FEET TO THE POINT OF BEGINNING.

CONTAINING 1,168 SQUARE FEET (0.027 ACRES), MORE OR LESS, AND BEING SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD OR THAT NOW EXIST ON THE GROUND.
DESCRIPTION OF A TEMPORARY CONSTRUCTION EASEMENT
TO BE CONVEYED TO THE CITY OF FORT COLLINS
(2109 WESTCHASE RD.)

A TRACT OF LAND TO BE CONVEYED AS A TEMPORARY CONSTRUCTION
EASEMENT, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 8,
TOWNSHIP 6 NORTH, RANGE 68 WEST OF THE SIXTH P.M.; CITY OF FORT
COLLINS, COUNTY OF LARIMER, STATE OF COLORADO; BEING LOCATED
WITHIN LOT 1, BLOCK 11 OF THE WESTCHASE P.U.D.; AND BEING MORE
PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 8, AND
CONSIDERING THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID
SECTION 8 TO BEAR N00°06'04"E, BASED UPON GPS OBSERVATIONS AND THE
CITY OF FORT COLLINS COORDINATE SYSTEM, WITH ALL BEARINGS
CONTAINED HEREIN RELATIVE THERETO;

THENCE N07°05'18"E, A DISTANCE OF 794.59 FEET TO THE POINT OF
BEGINNING;

THENCE N89°53'56"W, A DISTANCE OF 19.59 FEET TO A POINT ON THE
EASTERY RIGHT-OF-WAY LINE OF SOUTH TIMBERLINE ROAD;
THENCE ALONG SAID EASTERY RIGHT-OF-WAY LINE AND ALONG THE
SOUTHERLY RIGHT-OF-WAY LINE OF WESTCHASE ROAD, THE FOLLOWING
THREE (3) COURSES:

1. 94.14 FEET ALONG THE ARC OF A NON-TANGENT CURVE TO THE LEFT,
   HAVING A RADIUS OF 6,557.50 FEET, A CENTRAL ANGLE OF 00°49'21",
   AND A CHORD WHICH BEARS N01°02'42"E A DISTANCE OF 94.14 FEET;

2. 23.42 FEET ALONG THE ARC OF A REVERSE CURVE TO THE RIGHT
   HAVING A RADIUS OF 15.00 FEET, A CENTRAL ANGLE OF 89°28'03",
   AND A CHORD WHICH BEARS N45°22'03"E, A DISTANCE OF 21.11 FEET;

3. S89°53'56"E, A DISTANCE OF 45.02 FEET;
THENCE S00°06'04"W, A DISTANCE OF 20.15 FEET;
THENCE N89°53'56"W, A DISTANCE OF 40.07 FEET;
THENCE S01°20'02"W, A DISTANCE OF 88.86 FEET TO THE POINT OF
BEGINNING.

CONTAINING 2,911 SQUARE FEET (0.067 ACRES), MORE OR LESS, AND BEING
SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD OR THAT
NOW EXIST ON THE GROUND.
DESCRIPTION OF A TEMPORARY CONSTRUCTION EASEMENT TO BE CONVEYED TO THE CITY OF FORT COLLINS
(2205 Kechter Road)

A TRACT OF LAND TO BE CONVEYED AS A TEMPORARY CONSTRUCTION EASEMENT, LOCATED IN THE NORTHWEST QUARTER OF SECTION 8, TOWNSHIP 6 NORTH, RANGE 68 WEST OF THE SIXTH P.M.; CITY OF FORT COLLINS, COUNTY OF LARIMER, STATE OF COLORADO; BEING LOCATED WITHIN THAT TRACT OF LAND DESCRIBED IN THE QUIT CLAIM DEED RECORDED JULY 12, 1993 AT RECEPTION NO. 93047300 IN THE OFFICE OF THE LARIMER COUNTY CLERK AND RECORDER; AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 8, AND CONSIDERING THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 8 TO BEAR S00°00'47"E, BASED UPON GPS OBSERVATIONS AND THE CITY OF FORT COLLINS COORDINATE SYSTEM, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO;

THENCE S09°15'32"E, A DISTANCE OF 591.27 FEET TO THE POINT OF BEGINNING, SAID POINT BEING ON THE SOUTHERLY BOUNDARY OF THE AFOREMENTIONED TRACT DESCRIBED AT RECEPTION NO. 93047300 (ALSO BEING THE NORTHERLY BOUNDARY OF THAT TRACT OF LAND DESCRIBED IN THE QUIT CLAIM DEED RECORDED APRIL 25, 2019 AT RECEPTION NO. 20190020844);

THENCE S89°38'51"W, A DISTANCE OF 30.00 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF SOUTH TIMBERLINE ROAD AS DESCRIBED IN THE GENERAL WARRANTY DEED RECORDED MAY 2, 2014 AT RECEPTION NO. 20140022089;

THENCE ALONG SAID EASTERLY RIGHT-OF-WAY LINE, AND ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF KECHTER ROAD AS DESCRIBED IN SAID GENERAL WARRANTY DEED, THE FOLLOWING FIVE (5) COURSES:
  1. N00°00'47"W, A DISTANCE OF 239.73 FEET;
  2. N07°34'30"E, A DISTANCE OF 121.16 FEET;
  3. N00°00'47"W, A DISTANCE OF 172.62 FEET;
  4. N44°44'29"E, A DISTANCE OF 14.20 FEET;
  5. N89°29'46"E, A DISTANCE OF 15.00 FEET;

THENCE S00°00'47"E, A DISTANCE OF 184.50 FEET;

THENCE S07°34'30"W, A DISTANCE OF 83.30 FEET;

THENCE S00°00'47"E, A DISTANCE OF 275.43 FEET TO THE POINT OF BEGINNING.

CONTAINING 14,822 SQUARE FEET (0.340 ACRES), MORE OR LESS, AND BEING SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD OR THAT NOW EXIST ON THE GROUND.
DESCRIPTION OF A TEMPORARY CONSTRUCTION EASEMENT TO BE CONVEYED TO THE CITY OF FORT COLLINS
(5318 S. TIMBERLINE ROAD)

A TRACT OF LAND TO BE CONVEYED AS A TEMPORARY CONSTRUCTION EASEMENT, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 5, TOWNSHIP 6 NORTH, RANGE 68 WEST OF THE SIXTH P.M.; CITY OF FORT COLLINS, COUNTY OF LARIMER, STATE OF COLORADO; BEING LOCATED WITHIN LOT 4 OF THE SCHELLER SUBDIVISION; AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 5 AND CONSIDERING THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 5 TO BEAR N00°12'29"W, BASED UPON GPS OBSERVATIONS AND THE CITY OF FORT COLLINS COORDINATE SYSTEM, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO;

THENCE N03°23'58"E, A DISTANCE OF 1112.52 FEET TO THE POINT OF BEGINNING, SAID POINT BEING ON THE SOUTHERLY BOUNDARY OF SAID LOT 4;

THENCE ALONG SAID SOUTHERLY BOUNDARY, S89°50'07"W, A DISTANCE OF 20.00 FEET TO ITS INTERSECTION WITH THE EASTERLY RIGHT-OF-WAY LINE OF SOUTH TIMBERLINE ROAD;
THENCE ALONG SAID EASTERLY RIGHT-OF-WAY LINE, N00°12'29"W, A DISTANCE OF 198.41 FEET TO ITS INTERSECTION WITH THE NORTHERLY BOUNDARY OF SAID LOT 4;
THENCE ALONG SAID NORTHERLY BOUNDARY, N89°50'37"E, A DISTANCE OF 20.00 FEET;
THENCE S00°12'29"E, A DISTANCE OF 198.41 FEET TO THE POINT OF BEGINNING.

CONTAINING 3,968 SQUARE FEET (0.091 ACRES), MORE OR LESS, AND BEING SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD OR THAT NOW EXIST ON THE GROUND.
DESCRIPTION OF A TEMPORARY CONSTRUCTION EASEMENT TO BE CONVEYED TO THE CITY OF FORT COLLINS
(5332 S. TIMBERLINE ROAD)

A TRACT OF LAND TO BE CONVEYED AS A TEMPORARY CONSTRUCTION EASEMENT, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 5, TOWNSHIP 6 NORTH, RANGE 68 WEST OF THE SIXTH P.M.; CITY OF FORT COLLINS, COUNTY OF LARIMER, STATE OF COLORADO; BEING LOCATED WITHIN LOT 3 OF THE SCHELLER SUBDIVISION; AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 5 AND CONSIDERING THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 5 TO BEAR N00°12'29"W, BASED UPON GPS OBSERVATIONS AND THE CITY OF FORT COLLINS COORDINATE SYSTEM, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO;

THENCE N03°23'58"E, A DISTANCE OF 1,112.52 FEET TO THE POINT OF BEGINNING, SAID POINT BEING ON THE NORTHERLY BOUNDARY OF SAID LOT 3;

THENCE S00°12'29"E, A DISTANCE OF 134.03 FEET TO A POINT ON THE SOUTHERLY BOUNDARY OF SAID LOT 3;
THENCE ALONG SAID SOUTHERLY BOUNDARY, S89°46'45"W, A DISTANCE OF 20.00 FEET TO ITS INTERSECTION WITH THE EASTERLY RIGHT-OF-WAY LINE OF SOUTH TIMBERLINE ROAD;
THENCE ALONG SAID EASTERLY RIGHT-OF-WAY LINE, N00°12'29"W, A DISTANCE OF 134.05 FEET TO ITS INTERSECTION WITH THE NORTHERLY BOUNDARY OF SAID LOT 3;
THENCE ALONG SAID NORTHERLY BOUNDARY, N89°50'07"E, A DISTANCE OF 20.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 2,895 SQUARE FEET (0.066 ACRES), MORE OR LESS, AND BEING SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD OR THAT NOW EXIST ON THE GROUND.
DESCRIPTION OF A TEMPORARY CONSTRUCTION EASEMENT TO BE CONVEYED TO THE CITY OF FORT COLLINS
(5408 S. TIMBERLINE ROAD)

A TRACT OF LAND TO BE CONVEYED AS A TEMPORARY CONSTRUCTION EASEMENT, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 5, TOWNSHIP 6 NORTH, RANGE 68 WEST OF THE SIXTH P.M.; CITY OF FORT COLLINS, COUNTY OF LARIMER, STATE OF COLORADO; BEING LOCATED WITHIN LOT 2 OF THE SCHELLER SUBDIVISION; AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 5 AND CONSIDERING THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 5 TO BEAR N00°12'29"W, BASED UPON GPS OBSERVATIONS AND THE CITY OF FORT COLLINS COORDINATE SYSTEM, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO;

THENCE N04°36'13"E, A DISTANCE OF 834.52 FEET TO THE POINT OF BEGINNING, SAID POINT BEING ON THE SOUTHERLY BOUNDARY OF SAID LOT 2;

THENCE ALONG SAID SOUTHERLY BOUNDARY, S89°38'10"W, A DISTANCE OF 20.00 FEET TO ITS INTERSECTION WITH THE EASTERLY RIGHT-OF-WAY LINE OF SOUTH TIMBERLINE ROAD;
THENCE ALONG SAID EASTERLY RIGHT-OF-WAY LINE, N00°12'29"W, A DISTANCE OF 144.77 FEET TO ITS INTERSECTION WITH THE NORTHERLY BOUNDARY OF SAID LOT 2;
THENCE ALONG SAID NORTHERLY BOUNDARY, N89°46'45"E, A DISTANCE OF 20.00 FEET;
THENCE S00°12'29"E, A DISTANCE OF 144.72 FEET TO THE POINT OF BEGINNING.

CONTAINING 2,895 SQUARE FEET (0.066 ACRES), MORE OR LESS, AND BEING SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD OR THAT NOW EXIST ON THE GROUND.
DESCRIPTION OF A TEMPORARY CONSTRUCTION EASEMENT TO BE CONVEYED TO THE CITY OF FORT COLLINS (5416 S. TIMBERLINE ROAD)

A TRACT OF LAND TO BE CONVEYED AS A TEMPORARY CONSTRUCTION EASEMENT, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 5, TOWNSHIP 6 NORTH, RANGE 68 WEST OF THE SIXTH P.M.; CITY OF FORT COLLINS, COUNTY OF LARIMER, STATE OF COLORADO; BEING LOCATED WITHIN LOT 1 OF THE SCHELLER SUBDIVISION; AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 5 AND CONSIDERING THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 5 TO BEAR N00°12'29"W, BASED UPON GPS OBSERVATIONS AND THE CITY OF FORT COLLINS COORDINATE SYSTEM, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO;

THENCE N04°36'13"E, A DISTANCE OF 834.52 FEET TO THE POINT OF BEGINNING, SAID POINT BEING ON THE NORTHERLY BOUNDARY OF SAID LOT 1;

THENCE S00°12'29"E, A DISTANCE OF 143.94 FEET TO A POINT ON THE SOUTHERLY BOUNDARY OF SAID LOT 1 (ALSO BEING THE NORTHERLY BOUNDARY OF THE TRACT DESCRIBED IN THE QUIT CLAIM DEED RECORDED JULY 18, 2017 AT RECEPTION NO. 2017047336 IN THE OFFICE OF THE LARIMER COUNTY CLERK AND RECORDER);

THENCE ALONG SAID SOUTHERLY BOUNDARY, S89°29'36"W, A DISTANCE OF 20.00 FEET TO ITS INTERSECTION WITH THE EASTERLY RIGHT-OF-WAY LINE OF SOUTH TIMBERLINE ROAD;

THENCE ALONG SAID EASTERLY RIGHT-OF-WAY LINE, N00°12'29"W, A DISTANCE OF 143.99 FEET TO ITS INTERSECTION WITH THE NORTHERLY BOUNDARY OF SAID LOT 1;

THENCE ALONG SAID NORTHERLY BOUNDARY, N89°38'10"E, A DISTANCE OF 20.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 2,879 SQUARE FEET (0.066 ACRES), MORE OR LESS, AND BEING SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD OR THAT NOW EXIST ON THE GROUND.
DESCRIPTION OF A TRACT OF LAND TO BE CONVEYED TO THE CITY OF FORT COLLINS
(5428 S. TIMBERLINE ROAD)

A TRACT OF LAND LOCATED IN THE SOUTHWEST QUARTER OF SECTION 5, TOWNSHIP 6 NORTH, RANGE 68 WEST OF THE SIXTH P.M.; CITY OF FORT COLLINS, COUNTY OF LARIMER, STATE OF COLORADO; BEING A PORTION OF THAT TRACT OF LAND DESCRIBED IN THE QUIT CLAIM DEED RECORDED JULY 18, 2017 AT RECEPTION NO. 20170047336 IN THE OFFICE OF THE LARIMER COUNTY CLERK AND RECORDER; AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 5 AND CONSIDERING THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 5 TO BEAR N00°12'29"W, BASED UPON GPS OBSERVATIONS AND THE CITY OF FORT COLLINS COORDINATE SYSTEM, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO;

THENCE N03°57'05"E, A DISTANCE OF 689.35 FEET TO THE POINT OF BEGINNING, SAID POINT BEING ON THE NORTHERLY BOUNDARY OF SAID TRACT DESCRIBED AT RECEPTION NO. 20170047336 (ALSO BEING THE EXISTING RIGHT-OF-WAY LINE OF SOUTH TIMBERLINE ROAD);

THENCE S00°12'29"E, A DISTANCE OF 187.61 FEET TO A POINT ON THE SOUTHERLY BOUNDARY OF SAID TRACT DESCRIBED AT RECEPTION NO. 20170047336 (ALSO BEING THE EXISTING RIGHT-OF-WAY LINE OF SOUTH TIMBERLINE ROAD);

THENCE ALONG SAID RIGHT-OF-WAY LINE THE FOLLOWING THREE (3) COURSES:
1. S88°50'32"W, A DISTANCE OF 20.20 FEET;
2. N00°08'55"W, A DISTANCE OF 187.84 FEET;
3. N89°29'36"E, A DISTANCE OF 20.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 3,773 SQUARE FEET (0.087 ACRES), MORE OR LESS, AND BEING SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD OR THAT NOW EXIST ON THE GROUND.
DESCRIPTION OF A TEMPORARY CONSTRUCTION EASEMENT
TO BE CONVEYED TO THE CITY OF FORT COLLINS
(5428 S. TIMBERLINE ROAD)

A TRACT OF LAND TO BE CONVEYED AS A TEMPORARY CONSTRUCTION
EASEMENT, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 5,
TOWNSHIP 6 NORTH, RANGE 68 WEST OF THE SIXTH P.M.; CITY OF FORT
COLLINS, COUNTY OF LARIMER, STATE OF COLORADO; BEING LOCATED
WITHIN THAT TRACT OF LAND DESCRIBED IN THE QUIT CLAIM DEED
RECORDED JULY 18, 2017 AT RECEPTION NO. 20170047336 IN THE OFFICE OF
THE LARIMER COUNTY CLERK AND RECORDER; AND BEING MORE
PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 5 AND
CONSIDERING THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID
SECTION 5 TO BEAR N00°12'29"W, BASED UPON GPS OBSERVATIONS AND
THE CITY OF FORT COLLINS COORDINATE SYSTEM, WITH ALL BEARINGS
CONTAINED HERIN RELATIVE THERETO;

THENCE N03°57'05"E, A DISTANCE OF 689.35 FEET TO THE POINT OF
BEGINNING, SAID POINT BEING ON THE NORTHERLY BOUNDARY OF SAID
TRACT DESCRIBED AT RECEPTION NO. 20170047336 (ALSO BEING THE
EXISTING RIGHT-OF-WAY LINE OF SOUTH TIMBERLINE ROAD);

THENCE ALONG SAID NORTHERLY BOUNDARY, N89°29'36"E, A DISTANCE OF
20.00 FEET;
THENCE S00°12'29"E, A DISTANCE OF 187.38 FEET TO A POINT ON THE
SOUTHERLY BOUNDARY OF SAID TRACT DESCRIBED AT RECEPTION NO.
20170047336 (ALSO BEING THE EXISTING RIGHT-OF-WAY LINE OF SOUTH
TIMBERLINE ROAD);
THENCE ALONG SAID SOUTHERLY BOUNDARY, S88°50'32"W, A DISTANCE OF
20.00 FEET;
THENCE N00°12'29"W, A DISTANCE OF 187.61 FEET TO THE POINT OF
BEGINNING.

CONTAINING 3,750 SQUARE FEET (0.086 ACRES), MORE OR LESS, AND BEING
SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD OR THAT
NOW EXIST ON THE GROUND.
DESCRIPTION OF A TRACT OF LAND TO BE CONVEYED TO THE CITY OF FORT COLLINS (5529 S. TIMBERLINE ROAD)

A TRACT OF LAND LOCATED IN THE SOUTHEAST QUARTER OF SECTION 6, TOWNSHIP 6 NORTH, RANGE 68 WEST OF THE SIXTH P.M.; CITY OF FORT COLLINS, COUNTY OF LARIMER, STATE OF COLORADO; BEING A PORTION OF TRACT D OF WILLOW SPRINGS P.U.D., FIFTH FILING; AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 6, AND CONSIDERING THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 6 TO BEAR N00°12'29"W, BASED UPON GPS OBSERVATIONS AND THE CITY OF FORT COLLINS COORDINATE SYSTEM, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO;

THENCE N06°54'16"W, A DISTANCE OF 480.25 FEET TO THE POINT OF BEGINNING, SAID POINT BEING ON THE SOUTHERLY BOUNDARY OF SAID TRACT D;

THENCE N00°12'29"W, A DISTANCE OF 170.68 FEET TO A POINT ON THE NORTHERLY BOUNDARY OF SAID TRACT D;

THENCE ALONG SAID NORTHERLY BOUNDARY, N89°57'23"E, A DISTANCE OF 6.00 FEET THE WESTERLY RIGHT-OF-WAY LINE OF SOUTH TIMBERLINE ROAD;

THENCE ALONG SAID WESTERLY RIGHT-OF-WAY LINE, S00°12'29"E, A DISTANCE OF 170.67 FEET TO THE SOUTHEAST CORNER OF SAID TRACT D;

THENCE ALONG SAID SOUTHERLY BOUNDARY OF SAID TRACT D, S89°47'31"W, A DISTANCE OF 6.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 1,024 SQUARE FEET (0.024 ACRES), MORE OR LESS, AND BEING SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD OR THAT NOW EXIST ON THE GROUND.
DESCRIPTION OF A TEMPORARY CONSTRUCTION EASEMENT
TO BE CONVEYED TO THE CITY OF FORT COLLINS
(5529 S. TIMBERLINE ROAD)

A TRACT OF LAND TO BE CONVEYED AS A TEMPORARY CONSTRUCTION
EASEMENT, LOCATED IN THE SOUTHEAST QUARTER OF SECTION 6,
TOWNSHIP 6 NORTH, RANGE 68 WEST OF THE SIXTH P.M.; CITY OF FORT
COLLINS, COUNTY OF LARIMER, STATE OF COLORADO; BEING LOCATED
WITHIN TRACT D OF WILLOW SPRINGS P.U.D., FIFTH FILING; AND BEING MORE
PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 6, AND
CONSIDERING THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID
SECTION 6 TO BEAR N00°12’29"W, BASED UPON GPS OBSERVATIONS AND THE
CITY OF FORT COLLINS COORDINATE SYSTEM, WITH ALL BEARINGS
CONTAINED HEREIN RELATIVE THERETO;

THENCE N06°11’32"W, A DISTANCE OF 479.59 FEET TO THE POINT OF
BEGINNING, SAID POINT BEING THE SOUTHEAST CORNER OF SAID TRACT D
(ALSO BEING ON THE WESTERLY RIGHT-OF-WAY LINE OF SOUTH TIMBERLINE
ROAD);

THENCE ALONG THE SOUTHERLY BOUNDARY OF SAID TRACT D, S89°47’31"W,
A DISTANCE OF 11.00 FEET;
THENCE N00°12’29"W, A DISTANCE OF 170.70 FEET TO A POINT ON THE
NORTHERLY BOUNDARY OF SAID TRACT D;
THENCE ALONG SAID NORTHERLY BOUNDARY, N89°57’23"E, A DISTANCE OF
11.00 FEET TO THE NORTHEAST CORNER OF SAID TRACT D, SAID POINT
BEING ON THE WESTERLY RIGHT-OF-WAY LINE OF SOUTH TIMBERLINE ROAD;
THENCE ALONG SAID WEST RIGHT-OF-WAY S00°12’29"E, A DISTANCE OF
170.67 FEET TO THE POINT OF BEGINNING.

CONTAINING 1,878 SQUARE FEET (0.043 ACRES), MORE OR LESS, AND BEING
SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD OR THAT
NOW EXIST ON THE GROUND.
DESCRIPTION OF A TRACT OF LAND TO BE CONVEYED TO THE CITY OF FORT COLLINS
(5708 S. TIMBERLINE ROAD)

A TRACT OF LAND LOCATED IN THE NORTHWEST QUARTER OF SECTION 8, TOWNSHIP 6 NORTH, RANGE 68 WEST OF THE SIXTH P.M.; CITY OF FORT COLLINS, COUNTY OF LARIMER, STATE OF COLORADO; BEING A PORTION OF THAT TRACT OF LAND DESCRIBED IN THE QUIT CLAIM DEED RECORDED APRIL 25, 2019 AT RECEPTION NO. 20190020844 IN THE OFFICE OF THE LARIMER COUNTY CLERK AND RECORDER; AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 8, AND CONSIDERING THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 8 TO BEAR S00°00'47"E, BASED UPON GPS OBSERVATIONS AND THE CITY OF FORT COLLINS COORDINATE SYSTEM, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO;

THENCE S03°06'12"E, A DISTANCE OF 862.67 FEET TO THE POINT OF BEGINNING, SAID POINT BEING ON THE SOUTHERLY BOUNDARY OF THE AFOREMENTIONED TRACT DESCRIBED AT RECEPTION NO. 20190020844 (ALSO BEING THE EXISTING RIGHT-OF-WAY LINE OF SOUTH TIMBERLINE ROAD);

THENCE ALONG SAID RIGHT-OF-WAY LINE THE FOLLOWING THREE (3) COURSES:
   1. S89°40'43"W, A DISTANCE OF 16.69 FEET;
   2. N00°08'11"W, A DISTANCE OF 277.53 FEET;
   3. N89°38'51"E, A DISTANCE OF 17.29 FEET;
THENCE S00°00'46"E, A DISTANCE OF 277.54 FEET TO THE POINT OF BEGINNING.

CONTAINING 4,715 SQUARE FEET (0.108 ACRES), MORE OR LESS, AND BEING SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD OR THAT NOW EXIST ON THE GROUND.
DESCRIPTION OF A TEMPORARY CONSTRUCTION EASEMENT
TO BE CONVEYED TO THE CITY OF FORT COLLINS
(5708 S. TIMBERLINE ROAD)

A TRACT OF LAND TO BE CONVEYED AS A TEMPORARY CONSTRUCTION EASEMENT, LOCATED IN THE NORTHWEST QUARTER OF SECTION 8, TOWNSHIP 6 NORTH, RANGE 68 WEST OF THE SIXTH P.M.; CITY OF FORT COLLINS, COUNTY OF LARIMER, STATE OF COLORADO; BEING LOCATED WITHIN THAT TRACT OF LAND DESCRIBED IN THE QUIT CLAIM DEEDRecorded April 25, 2019 at Reception No. 20190020844 IN THE OFFICE OF THE LARIMER COUNTY CLERK AND RECORDER; AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 8, AND CONSIDERING THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 8 TO BEAR S00°00'47"E, BASED UPON GPS OBSERVATIONS AND THE CITY OF FORT COLLINS COORDINATE SYSTEM, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO;

THENCE S03°06'12"E, A DISTANCE OF 862.67 FEET TO THE POINT OF BEGINNING, SAID POINT BEING ON THE SOUTHERLY BOUNDARY OF THE AFOREMENTIONED TRACT DESCRIBED AT RECEPTION NO. 20190020844 (ALSO BEING THE NORTHERLY BOUNDARY OF LOT 1 OF THE LIEBL M.R.D. 95-EX0652);

THENCE N00°00'46"W, A DISTANCE OF 277.54 FEET TO A POINT ON THE NORTHERLY BOUNDARY OF THE AFOREMENTIONED TRACT DESCRIBED AT RECEPTION NO. 20190020844 (ALSO BEING THE SOUTHERLY BOUNDARY OF THAT TRACT OF LAND DESCRIBED IN THE QUIT CLAIM DEED RECORDED JULY 12, 1993 AT RECEPTION NO. 93047300);

THENCE ALONG SAID NORTHERLY BOUNDARY, N89°38'51"E, A DISTANCE OF 10.00 FEET;
THENCE S00°00'46"E, A DISTANCE OF 176.01 FEET;
THENCE N89°59'14"E, A DISTANCE OF 15.00 FEET;
THENCE S00°00'46"E, A DISTANCE OF 39.93 FEET;
THENCE S89°59'14"W, A DISTANCE OF 15.00 FEET;
THENCE S00°00'46"E, A DISTANCE OF 61.61 FEET TO A POINT ON THE SOUTHERLY BOUNDARY OF THE AFOREMENTIONED TRACT DESCRIBED AT RECEPTION NO. 20190020844;
THENCE ALONG SAID SOUTHERLY BOUNDARY S89°40'43"W, A DISTANCE OF 10.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 3,374 SQUARE FEET (0.077 ACRES), MORE OR LESS, AND BEING SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD OR THAT NOW EXIST ON THE GROUND.
DESCRIPTION OF A TEMPORARY CONSTRUCTION EASEMENT
TO BE CONVEYED TO THE CITY OF FORT COLLINS
(5716 S. TIMBERLINE ROAD)

A TRACT OF LAND TO BE CONVEYED AS A TEMPORARY CONSTRUCTION EASEMENT, LOCATED IN THE NORTHWEST QUARTER OF SECTION 8, TOWNSHIP 6 NORTH, RANGE 68 WEST OF THE SIXTH P.M.; CITY OF FORT COLLINS, COUNTY OF LARIMER, STATE OF COLORADO; BEING LOCATED WITHIN LOT 1 OF THE LIEBL M.R.D. 95-EX 0652; AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 8, AND CONSIDERING THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 8 TO BEAR S00°00'47"E, BASED UPON GPS OBSERVATIONS AND THE CITY OF FORT COLLINS COORDINATE SYSTEM, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO;

THENCE S04°19'21"E, A DISTANCE OF 863.76 FEET TO THE POINT OF BEGINNING, SAID POINT BEING ON THE NORTHERLY BOUNDARY OF LOT 1 OF THE LIEBL M.R.D. 95-EX0652 (ALSO BEING THE SOUTHERLY BOUNDARY OF THAT TRACT OF LAND DESCRIBED IN THE QUIT CLAIM DEED RECORDED APRIL 25, 2019 AT RECEPTION NO. 20190020844 IN THE OFFICE OF THE LARIMER COUNTY CLERK AND RECORDER);

THENCE S00°00'47"E, A DISTANCE OF 175.35 FEET;
THENCE N89°59'13"E, A DISTANCE OF 10.00 FEET;
THENCE S00°00'47"E, A DISTANCE OF 29.75 FEET TO A POINT ON THE SOUTHERLY BOUNDARY OF SAID LOT 1;
THENCE ALONG SAID SOUTHERLY BOUNDARY, S89°40'43"W, A DISTANCE OF 25.00 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF SOUTH TIMBERLINE ROAD;
THENCE ALONG SAID EASTERLY RIGHT-OF-WAY LINE, N00°00'47"W, A DISTANCE OF 205.16 FEET TO A POINT ON THE NORTHERLY BOUNDARY OF SAID LOT 1;
THENCE ALONG SAID NORTHERLY BOUNDARY, N89°40'43"E, A DISTANCE OF 15.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 3,375 SQUARE FEET (0.077 ACRES), MORE OR LESS, AND BEING SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD OR THAT NOW EXIST ON THE GROUND.
DESCRIPTION OF A TRACT OF LAND TO BE CONVEYED
TO THE CITY OF FORT COLLINS
(5808 S. TIMBERLINE ROAD)

A TRACT OF LAND LOCATED IN THE NORTHWEST QUARTER OF SECTION 8,
TOWNSHIP 6 NORTH, RANGE 68 WEST OF THE SIXTH P.M.; CITY OF FORT
COLLINS, COUNTY OF LARIMER, STATE OF COLORADO; BEING A PORTION OF
LOT 2 OF THE LIEBL M.R.D. 95-EX 0652; AND BEING MORE PARTICULARLY
DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 8, AND
CONSIDERING THE WEST LINE OF THE NORTHWEST QUARTER OF SAID
SECTION 8 TO BEAR N00°00'47"W, BASED UPON GPS OBSERVATIONS AND THE
CITY OF FORT COLLINS COORDINATE SYSTEM, WITH ALL BEARINGS
CONTAINED HEREIN RELATIVE THERETO;

THENCE N02°24'15"E, A DISTANCE OF 1,420.40 FEET TO THE POINT OF
BEGINNING;

THENCE S89°59'13"W, A DISTANCE OF 10.00 FEET TO A POINT ON THE
EASTERY RIGHT-OF-WAY LINE OF SOUTH TIMBERLINE ROAD;
THENCE ALONG SAID EASTERY RIGHT-OF-WAY LINE, N00°00'47"W, A
DISTANCE OF 51.34 FEET;
THENCE N89°59'13"E, A DISTANCE OF 10.00 FEET;
THENCE S00°00'47"E, A DISTANCE OF 51.34 FEET TO THE POINT OF
BEGINNING.

CONTAINING 513 SQUARE FEET (0.012 ACRES), MORE OR LESS, AND BEING
SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD OR THAT
NOW EXIST ON THE GROUND.
DESCRIPTION OF A TEMPORARY CONSTRUCTION EASEMENT
TO BE CONVEYED TO THE CITY OF FORT COLLINS
(5808 S. TIMBERLINE ROAD)

TWO TRACTS OF LAND TO BE CONVEYED AS TEMPORARY CONSTRUCTION
EASEMENTS, LOCATED IN THE NORTHWEST QUARTER OF SECTION 8, TOWNSHIP
6 NORTH, RANGE 68 WEST OF THE SIXTH P.M.; CITY OF FORT COLLINS, COUNTY
OF LARIMER, STATE OF COLORADO; BEING LOCATED WITHIN LOT 2 OF THE LIEBL
M.R.D. 95-EX 0652; AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

TRACT A
COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 8, AND
CONSIDERING THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION
8 TO BEAR N00°00'47"W, BASED UPON GPS OBSERVATIONS AND THE CITY OF
FORT COLLINS COORDINATE SYSTEM, WITH ALL BEARINGS CONTAINED HEREIN
RELATIVE THERETO;

THENCE N03°02'45"E, A DISTANCE OF 1,309.94 FEET TO THE POINT OF
BEGINNING, SAID POINT BEING ON THE SOUTHERLY BOUNDARY OF SAID LOT 2
(ALSO BEING THE NORTHERLY BOUNDARY OF THE LEHMAN-TIMBERLINE M.L.D.);

THENCE ALONG SAID SOUTHERLY BOUNDARY, S89°40'43"W, A DISTANCE OF
20.00 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF SOUTH
TIMBERLINE ROAD;
THENCE ALONG SAID EASTERLY RIGHT-OF-WAY LINE, N00°00'47"W, A DISTANCE
OF 111.16 FEET;
THENCE N89°59'13"E, A DISTANCE OF 10.00 FEET;
THENCE N00°00'47"W, A DISTANCE OF 51.34 FEET TO A POINT HEREAFTER
KNOWN AS POINT “A”;
THENCE S61°54'25"E, A DISTANCE OF 43.92 FEET;
THENCE S27°47'11"W, A DISTANCE OF 52.31 FEET;
THENCE N45°08'11"W, A DISTANCE OF 6.13 FEET;
THENCE S00°00'47"E, A DISTANCE OF 99.77 FEET TO THE POINT OF BEGINNING.

CONTAINING 3,686 SQUARE FEET (0.085 ACRES), MORE OR LESS, AND BEING
SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD OR THAT NOW
EXIST ON THE GROUND.

TRACT B
BEGINNING AT THE AFOREMENTIONED POINT “A”;

THENCE S89°59'13"W, A DISTANCE OF 10.00 FEET TO A POINT ON THE EASTERLY
RIGHT-OF-WAY LINE OF SOUTH TIMBERLINE ROAD;
THENCE ALONG SAID EASTERLY RIGHT-OF-WAY LINE, N00°00'47"W, A DISTANCE
OF 78.33 FEET TO A POINT ON THE NORTHERLY BOUNDARY OF SAID LOT 2;
THENCE ALONG SAID NORTHERLY BOUNDARY, N89°40'43"E, A DISTANCE OF
25.00 FEET;
THENCE S00°00'47"E, A DISTANCE OF 28.27 FEET;
THENCE S89°59'13"W, A DISTANCE OF 15.00 FEET;
THENCE S00°00'47"E, A DISTANCE OF 50.20 FEET TO THE POINT OF BEGINNING.
CONTAINING 1,207 SQUARE FEET (0.028 ACRES), MORE OR LESS, AND BEING SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD OR THAT NOW EXIST ON THE GROUND.
DESCRIPTION OF TRACTS OF LAND TO BE CONVEYED TO THE CITY OF FORT COLLINS  
(5844 S. TIMBERLINE ROAD)

TWO TRACTS OF LAND LOCATED IN THE NORTHWEST QUARTER OF SECTION 8, TOWNSHIP 6 NORTH, RANGE 68 WEST OF THE SIXTH P.M.; CITY OF FORT COLLINS, COUNTY OF LARIMER, STATE OF COLORADO; BEING PORTIONS OF TRACT A OF THE POUFRE SCHOOL DISTRICT AND PARAGON POINT PARTNERS, LTD MINOR LAND DIVISION; AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

TRACT A
COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 8, AND CONSIDERING THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 8 TO BEAR N00°00'47"W, BASED UPON GPS OBSERVATIONS AND THE CITY OF FORT COLLINS COORDINATE SYSTEM, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO;

THENCE N11°48'15"E, A DISTANCE OF 412.68 FEET TO THE POINT OF BEGINNING;

THENCE S00°15'04"E, A DISTANCE OF 5.00 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF ZEPHYR ROAD;

THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY LINE AND ALONG THE EASTERNLY RIGHT-OF-WAY LINE OF SOUTH TIMBERLINE ROAD, THE FOLLOWING THREE (3) COURSES:

1. S89°44'56"W, A DISTANCE OF 9.97 FEET;
2. 23.62 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 15.00 FEET, A CENTRAL ANGLE OF 90°14'17", AND A CHORD WHICH BEARS N45°07'56"W A DISTANCE OF 21.26 FEET;
3. N00°00'47"W, A DISTANCE OF 25.00 FEET;

THENCE N89°59'13"E, A DISTANCE OF 5.00 FEET;

THENCE 15.75 FEET ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 10.00 FEET, A CENTRAL ANGLE OF 90°14'17", AND A CHORD WHICH BEARS S45°07'56"E A DISTANCE OF 14.17 FEET;

THENCE N89°44'56"E, A DISTANCE OF 9.97 FEET TO THE POINT OF BEGINNING.

CONTAINING 273 SQUARE FEET (0.006 ACRES), MORE OR LESS, AND BEING SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD OR THAT NOW EXIST ON THE GROUND.

TRACT B
COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 8;

THENCE N05°29'59"E, A DISTANCE OF 775.48 FEET TO THE POINT OF BEGINNING, SAID POINT BEING ON THE NORTHERLY BOUNDARY OF TRACT A OF THE POUFRE SCHOOL DISTRICT AND PARAGON POINT PARTNERS, LTD MINOR LAND DIVISION (ALSO BEING THE SOUTHERLY BOUNDARY OF THE LEHMAN-TIMBERLINE MINOR LAND DIVISION);
THENCE S00°00'47"E, A DISTANCE OF 120.49 FEET;
THENCE S89°59'13"W, A DISTANCE OF 15.00 FEET TO A POINT ON THE
EASTERY RIGHT-OF-WAY LINE OF SOUTH TIMBERLINE ROAD;
THENCE ALONG SAID EASTERY RIGHT-OF-WAY LINE, N00°00'47"W, A
DISTANCE OF 120.42 FEET TO A POINT ON THE NORTHERLY BOUNDARY OF
SAID TRACT A;
THENCE ALONG SAID NORTHERLY BOUNDARY, N89°43'26"E, A DISTANCE OF
15.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 1,807 SQUARE FEET (0.041 ACRES), MORE OR LESS, AND BEING
SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD OR THAT
NOW EXIST ON THE GROUND.
DESCRIPTION OF A TEMPORARY CONSTRUCTION EASEMENT
TO BE CONVEYED TO THE CITY OF FORT COLLINS
(5844 S. TIMBERLINE ROAD)

TWO TRACTS OF LAND TO BE CONVEYED AS TEMPORARY CONSTRUCTION
EASEMENTS, LOCATED IN THE NORTHWEST QUARTER OF SECTION 8,
TOWNSHIP 6 NORTH, RANGE 68 WEST OF THE SIXTH P.M.; CITY OF FORT
COLLINS, COUNTY OF LARIMER, STATE OF COLORADO; BEING LOCATED
WITHIN TRACT A OF THE Poudre School District and Paragon Point
Partners, Ltd Minor Land Division; AND BEING MORE PARTICULARLY
DESCRIBED AS FOLLOWS:

TRACT A
COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 8, AND
CONSIDERING THE WEST LINE OF THE NORTHWEST QUARTER OF SAID
SECTION 8 TO BEAR N00°00'47"W, BASED UPON GPS OBSERVATIONS AND THE
CITY OF FORT COLLINS COORDINATE SYSTEM, WITH ALL BEARINGS
CONTAINED HEREIN RELATIVE THERETO;

THENCE N11°48'15"E, A DISTANCE OF 412.68 FEET TO THE POINT OF
BEGINNING;

THENCE S89°44'56"W, A DISTANCE OF 9.97 FEET;
THENCE 15.75 FEET ALONG THE ARC OF A NON-TANGENT CURVE TO THE
RIGHT, HAVING A RADIUS OF 10.00 FEET, A CENTRAL ANGLE OF 90°14'17", AND
A CHORD WHICH BEARS N45°07'56"W A DISTANCE OF 14.18 FEET;
THENCE N00°00'47"W, A DISTANCE OF 25.00 FEET;
THENCE S00°59'13"E, A DISTANCE OF 5.00 FEET;
THENCE S00°00'47"E, A DISTANCE OF 25.00 FEET;
THENCE 7.88 FEET ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A
RADIUS OF 5.00 FEET, A CENTRAL ANGLE OF 90°14'17", AND A CHORD WHICH
BEARS S45°07'56"E A DISTANCE OF 7.09 FEET;
THENCE N89°44'56"E, A DISTANCE OF 9.97 FEET;
THENCE S00°15'04"E, A DISTANCE OF 5.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 234 SQUARE FEET (0.005 ACRES), MORE OR LESS, AND BEING
SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD OR THAT
NOW EXIST ON THE GROUND.

TRACT B
COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 8;

THENCE N05°29'59"E, A DISTANCE OF 775.48 FEET TO THE POINT OF
BEGINNING, SAID POINT BEING ON THE NORTHERLY BOUNDARY OF TRACT A
OF THE Poudre School District and Paragon Point Partners, Ltd
Minor Land Division (also being the southerly boundary of the
Lehman-Timberline Minor Land Division);

THENCE ALONG SAID NORTHERLY BOUNDARY, N89°43'22"E, A DISTANCE OF
10.09 FEET;
THENCE S00°00'47"E, A DISTANCE OF 120.54 FEET;
THENCE S89°59'13"W, A DISTANCE OF 10.09 FEET;
THENCE N00°00'47"W, A DISTANCE OF 120.49 FEET TO THE POINT OF
BEGINNING.

CONTAINING 1,216 SQUARE FEET (0.028 ACRES), MORE OR LESS, AND BEING
SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD OR THAT
NOW EXIST ON THE GROUND.
DESCRIPTION OF A TEMPORARY CONSTRUCTION EASEMENT
TO BE CONVEYED TO THE CITY OF FORT COLLINS
(6417 S. TIMBERLINE ROAD)

A TRACT OF LAND TO BE CONVEYED AS A TEMPORARY CONSTRUCTION EASEMENT, LOCATED IN THE SOUTHEAST QUARTER OF SECTION 7, TOWNSHIP 6 NORTH, RANGE 68 WEST OF THE SIXTH P.M.; COUNTY OF LARIMER, STATE OF COLORADO; BEING LOCATED WITHIN TRACT A OF THE HENINGTON EXEMPTION PLAT RECORDED MAY 5, 1981 IN BOOK 2113, PAGE 1682 AND RE-RECORDED ON OCTOBER 5, 2012 AT RECEPTION NO. 20120699975 IN THE OFFICE OF THE LARIMER COUNTY CLERK AND RECORDER; AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 7, AND CONSIDERING THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 7 TO BEAR N00°06'04"E, BASED UPON GPS OBSERVATIONS AND THE CITY OF FORT COLLINS COORDINATE SYSTEM, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO;

THENCE N06°25'06"W, A DISTANCE OF 628.97 FEET TO THE POINT OF BEGINNING, SAID POINT BEING ON THE SOUTHERLY BOUNDARY OF SAID TRACT A;

THENCE N00°06'04"E, A DISTANCE OF 247.22 FEET;
THENCE N89°53'56"W, A DISTANCE OF 6.49 FEET;
THENCE N00°06'04"E, A DISTANCE OF 212.78 FEET TO A POINT ON THE NORTHERLY BOUNDARY OF SAID TRACT A;
THENCE ALONG SAID NORTHERLY BOUNDARY, S89°53'56"E, A DISTANCE OF 27.79 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF SOUTH TIMBERLINE ROAD;
THENCE ALONG SAID WESTERLY RIGHT-OF-WAY LINE, S00°06'04"W, A DISTANCE OF 460.00 FEET TO A POINT ON THE SOUTHERLY BOUNDARY OF SAID TRACT A;
THENCE ALONG SAID SOUTHERLY BOUNDARY, N89°53'56"W, A DISTANCE OF 21.30 FEET TO THE POINT OF BEGINNING.

CONTAINING 11,179 SQUARE FEET (0.257 ACRES), MORE OR LESS, AND BEING SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD OR THAT NOW EXIST ON THE GROUND.
DESCRIPTION OF A TEMPORARY CONSTRUCTION EASEMENT
TO BE CONVEYED TO THE CITY OF FORT COLLINS
(6521 CARMICHAEL ST.)

A TRACT OF LAND TO BE CONVEYED AS A TEMPORARY CONSTRUCTION
EASEMENT, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 8,
TOWNSHIP 6 NORTH, RANGE 68 WEST OF THE SIXTH P.M.; CITY OF FORT
COLLINS, COUNTY OF LARIMER, STATE OF COLORADO; BEING LOCATED
WITHIN LOT 3, BLOCK 11 OF THE WESTCHASE P.U.D.; AND BEING MORE
PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 8, AND
CONSIDERING THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID
SECTION 8 TO BEAR N00°06'04"E, BASED UPON GPS OBSERVATIONS AND THE
CITY OF FORT COLLINS COORDINATE SYSTEM, WITH ALL BEARINGS
CONTAINED HEREIN RELATIVE THERETO;

THENCE N39°13'58"E, A DISTANCE OF 106.90 FEET TO THE POINT OF
BEGINNING;

THENCE S00°06'04"W, A DISTANCE OF 39.85 FEET TO A POINT ON THE
NORTHERLY RIGHT-OF-WAY LINE OF EAST TRILBY ROAD;
THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, N89°50'04"W, A
DISTANCE OF 10.00 FEET TO ITS INTERSECTION WITH THE EASTERLY
RIGHT-OF-WAY LINE OF SOUTH TIMBERLINE ROAD;
THENCE ALONG SAID EASTERLY RIGHT-OF-WAY LINE, N00°06'04"E, A
DISTANCE OF 39.84 FEET;
THENCE S89°53'56"E, A DISTANCE OF 10.00 FEET TO THE POINT OF
BEGINNING.

CONTAINING 398 SQUARE FEET (0.009 ACRES), MORE OR LESS, AND BEING
SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD OR THAT
NOW EXIST ON THE GROUND.
DESCRIPTION OF A TEMPORARY CONSTRUCTION EASEMENT
TO BE CONVEYED TO THE CITY OF FORT COLLINS
(FOSSIL CREEK AT LINDEN PARK)

THREE TRACTS OF LAND TO BE CONVEYED AS TEMPORARY CONSTRUCTION EASEMENTS, LOCATED IN THE SOUTHEAST QUARTER OF SECTION 7, TOWNSHIP 6 NORTH, RANGE 68 WEST OF THE SIXTH P.M.; CITY OF FORT COLLINS, COUNTY OF LARIMER, STATE OF COLORADO; LOCATED WITHIN OPEN SPACE B, AND OPEN SPACE C OF LINDEN PARK P.D.P.; AND BEING MORE PARTICULARLY DESCRIBED AS follows:

TRACT A
COMMENCING AT THE EAST QUARTER CORNER OF SAID SECTION 7, AND CONSIDERING THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 7 TO BEAR S00°06'04"W, BASED UPON GPS OBSERVATIONS AND THE CITY OF FORT COLLINS COORDINATE SYSTEM, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO;

THENCE S03°52'32"W, A DISTANCE OF 1,023.36 FEET TO THE POINT OF BEGINNING;

THENCE S89°53'56"E, A DISTANCE OF 10.00 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF SOUTH TIMBERLINE ROAD;

THENCE ALONG SAID WESTERLY RIGHT-OF-WAY LINE, S00°06'04"W, A DISTANCE OF 275.46 FEET TO A POINT ON THE SOUTHERLY BOUNDARY OF LINDEN PARK P.D.P. (ALSO BEING NORTHERLY BOUNDARY OF TRACT B OF THE HENINGTON EXEMPTION PLAT RECORDED MAY 5, 1981 IN BOOK 2113, PAGE 1682 AND RE-RECORDED ON OCTOBER 5, 2012 AT RECEPTION NO. 20120069975 IN THE OFFICE OF THE LARIMER COUNTY CLERK AND RECORDER);

THENCE ALONG SAID SOUTHERLY BOUNDARY, N89°54'16"W, A DISTANCE OF 10.00 FEET;

THENCE N00°06'04"E, A DISTANCE OF 275.46 FEET TO THE POINT OF BEGINNING.

CONTAINING 2,755 SQUARE FEET (0.063 ACRES), MORE OR LESS, AND BEING SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD OR THAT NOW EXIST ON THE GROUND.

TRACT B
COMMENCING AT SAID EAST QUARTER CORNER OF SAID SECTION 7;

THENCE S04°33'56"W, A DISTANCE OF 999.18 FEET TO THE POINT OF BEGINNING;

THENCE N00°06'04"E, A DISTANCE OF 40.63 FEET;

THENCE N85°47'23"E, A DISTANCE OF 10.44 FEET;

THENCE S00°06'04"W, A DISTANCE OF 41.41 FEET;

THENCE N89°53'56"W, A DISTANCE OF 10.41 FEET TO THE POINT OF BEGINNING.
CONTAINING 427 SQUARE FEET (0.010 ACRES), MORE OR LESS, AND BEING SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD OR THAT NOW EXIST ON THE GROUND.

TRACT C
COMMENCING AT SAID EAST QUARTER CORNER OF SAID SECTION 7;

THENCE S05°30'16"W, A DISTANCE OF 768.49 FEET TO THE POINT OF BEGINNING;

THENCE S89°53'56"E, A DISTANCE OF 15.00 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF SOUTH TIMBERLINE ROAD;
THENCE ALONG SAID WESTERLY RIGHT-OF-WAY LINE, S00°06'04"W, A DISTANCE OF 59.93 FEET;
THENCE S19°18'50"W, A DISTANCE OF 54.07 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF FOSSIL CREEK PARKWAY;
THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, THE FOLLOWING TWO (2) COURSES:

1. 32.60 FEET ALONG THE ARC OF A NON-TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 294.50 FEET, A CENTRAL ANGLE OF 06°20'36", AND A CHORD WHICH BEARS S83°16'22"W A DISTANCE OF 32.59 FEET;
2. S80°06'04"W, A DISTANCE OF 8.51 FEET;
THENCE N09°53'56"W, A DISTANCE OF 15.00 FEET;
THENCE N80°06'04"E, A DISTANCE OF 8.51 FEET;
THENCE 38.02 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 309.50 FEET, A CENTRAL ANGLE OF 07°02'19", AND A CHORD WHICH BEARS N83°37'14"E A DISTANCE OF 38.00 FEET;
THENCE N00°06'04"E, A DISTANCE OF 95.80 FEET TO THE POINT OF BEGINNING.

CONTAINING 1,889 SQUARE FEET (0.043 ACRES), MORE OR LESS, AND BEING SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD OR THAT NOW EXIST ON THE GROUND.
DESCRIPTION OF TRACTS OF LAND TO BE CONVEYED TO THE CITY OF FORT COLLINS
(WILLOW SPRINGS COMMUNITY ASSOCIATION)

TWO TRACTS OF LAND LOCATED IN THE SOUTHEAST QUARTER OF SECTION 6, AND IN THE NORTHEAST QUARTER OF SECTION 7, TOWNSHIP 6 NORTH, RANGE 68 WEST OF THE SIXTH P.M.; CITY OF FORT COLLINS, COUNTY OF LARIMER, STATE OF COLORADO; BEING PORTIONS OF OPEN SPACE “D” AND OPEN SPACE “F” OF WILLOW SPRINGS P.U.D., AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

CONSIDERING THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 6 TO BEAR N0°12'29"W, BASED UPON GPS OBSERVATIONS AND THE CITY OF FORT COLLINS COORDINATE SYSTEM, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO;

TRACT A – A PORTION OF SAID OPEN SPACE “F”:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 6;

THENCE S53°06'42"W, A DISTANCE OF 80.61 FEET TO THE POINT OF BEGINNING;

THENCE N00°31'44"W, A DISTANCE OF 21.15 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF WILLOW SPRINGS WAY;

THENCE ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE AND ALONG THE WESTERLY RIGHT-OF-WAY LINE OF SOUTH TIMBERLINE ROAD, THE FOLLOWING TWO (2) COURSES:

1. 23.24 FEET ALONG THE ARC OF A NON-TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 15.00 FEET, A CENTRAL ANGLE OF 88°45'13", AND A CHORD WHICH BEARS S44°23'24"E A DISTANCE OF 20.98 FEET;

2. S00°00'47"E, A DISTANCE OF 1,023.73 FEET;

THENCE N07°31'44"W, A DISTANCE OF 62.06 FEET;

THENCE 21.12 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 161.00 FEET, A CENTRAL ANGLE OF 07°30'56", AND A CHORD WHICH BEARS N03°46'15"W A DISTANCE OF 21.10 FEET;

THENCE N00°00'47"W, A DISTANCE OF 869.27 FEET;

THENCE N04°20'54"W, A DISTANCE OF 65.93 FEET TO THE POINT OF BEGINNING.

CONTAINING 9,746 SQUARE FEET (0.224 ACRES), MORE OR LESS, AND BEING SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD OR THAT NOW EXIST ON THE GROUND.
TRACT B – A PORTION OF SAID OPEN SPACE “D”:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 6;
THENCE N22°43’28”W, A DISTANCE OF 130.56 FEET TO THE POINT OF
BEGINNING, SAID POINT BEING ON THE EASTERLY BOUNDARY OF OPEN
SPACE “D” (ALSO BEING ON THE WESTERLY RIGHT-OF-WAY LINE OF SOUTH
TIMBERLINE ROAD);

THENCE ALONG SAID WESTERLY RIGHT-OF-WAY LINE AND ALONG THE
NORTHERLY RIGHT-OF-WAY LINE OF WILLOW SPRINGS WAY, THE
FOLLOWING THREE (3) COURSES:
   1. S00°12’29”E, A DISTANCE OF 78.61 FEET;
   2. 23.56 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING A
      RADIUS OF 15.00 FEET, A CENTRAL ANGLE OF 89°59’52”, AND A CHORD
      WHICH BEARS S44°47’27”W A DISTANCE OF 21.21 FEET;
   3. S89°47’31”E, A DISTANCE OF 6.00 FEET TO THE POINT OF BEGINNING.

THENCE N19°39’22”E, A DISTANCE OF 71.25 FEET;
THENCE N00°12’29”W, A DISTANCE OF 26.60 FEET;
THENCE N89°47’31”E, A DISTANCE OF 6.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 1,325 SQUARE FEET (0.030 ACRES), MORE OR LESS, AND BEING
SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD OR THAT
NOW EXIST ON THE GROUND.
DESCRIPTION OF TRACTS OF LAND TO BE CONVEYED AS TEMORARY CONSTRUCTION EASEMENTS TO THE CITY OF FORT COLLINS (WILLOW SPRINGS COMMUNITY ASSOCIATION)


CONSIDERING THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 6 TO BEAR N00°12'29"W, BASED UPON GPS OBSERVATIONS AND THE CITY OF FORT COLLINS COORDINATE SYSTEM, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO;

TRACT A - LOCATED WITHIN OPEN SPACE “F”;

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 6;

THENCE S53°06'42"W, A DISTANCE OF 80.61 FEET TO THE POINT OF BEGINNING;

THENCE S04°20'54"E, A DISTANCE OF 65.93 FEET;
THENCE S00°00'47"E, A DISTANCE OF 869.27 FEET;
THENCE 21.12 FEET ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 161.00 FEET, A CENTRAL ANGLE OF 07°30'56", AND A CHORD WHICH BEARS N03°46'15"W A DISTANCE OF 21.10 FEET;
THENCE S07°31'44"E, A DISTANCE OF 62.06 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF SOUTH TIMBERLINE ROAD;
THENCE ALONG SAID WESTERLY RIGHT-OF-WAY LINE, S00°00'47"E, A DISTANCE OF 35.82 FEET TO THE SOUTHEAST CORNER OF SAID OPEN SPACE “F”;
THENCE N00°00'47"W, A DISTANCE OF 1,012.98 FEET;
THENCE N31°03'41"W, A DISTANCE OF 34.62 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF WILLOW SPRINGS WAY;
THENCE ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, THE FOLLOWING TWO (2) COURSES:
1. N89°47'23"E, A DISTANCE OF 9.47 FEET;
2. 0.38 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 15.00 FEET, A CENTRAL ANGLE OF 01°26'36", AND A CHORD WHICH BEARS S89°29'19"E A DISTANCE OF 0.38 FEET;
THENCE S00°31'44"E, A DISTANCE OF 21.15 FEET TO THE POINT OF BEGINNING.

CONTAINING 7,145 SQUARE FEET (0.164 ACRES), MORE OR LESS, AND BEING SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD OR THAT NOW EXIST ON THE GROUND.
TRACT B - LOCATED WITHIN OPEN SPACE “D”:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 6; 
THENCE N22°43'28"W, A DISTANCE OF 130.56 FEET TO THE POINT OF BEGINNING, SAID POINT BEING ON THE EASTERLY BOUNDARY OF OPEN SPACE “D” (ALSO BEING ON THE WESTERLY RIGHT-OF-WAY LINE OF SOUTH TIMBERLINE ROAD);

THECE S89°47'31"W, A DISTANCE OF 6.00 FEET; 
THENCE S00°12'29"E, A DISTANCE OF 26.60 FEET; 
THENCE S19°39'22"W, A DISTANCE OF 71.25 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF WILLOW SPRINGS WAY; 
THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, S89°47'23"W, A DISTANCE OF 5.40 FEET; 
THENCE N12°01'02"E, A DISTANCE OF 389.74 FEET TO A POINT ON THE NORTHERLY BOUNDARY OF SAID OPEN SPACE “D”; 
THENCE ALONG SAID NORTHERLY BOUNDARY, N89°47'31"E, A DISTANCE OF 11.00 FEET TO SAID WESTERLY RIGHT-OF-WAY LINE OF SOUTH TIMBERLINE ROAD; 
THENCE ALONG SAID WESTERLY RIGHT-OF-WAY S00°12'29"E, A DISTANCE OF 356.36 FEET TO THE POINT OF BEGINNING.

CONTAINING 4,318 SQUARE FEET (0.099 ACRES), MORE OR LESS, AND BEING SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD OR THAT NOW EXIST ON THE GROUND.

TRACT C – LOCATED WITHIN TRACT E AND OPEN SPACE “C” OF WILLOW SPRINGS P.U.D., AND WITHIN TRACT C OF WILLOW SPRINGS P.U.D, FIFTH FILING:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 6; 
THENCE N04°37'21"W, A DISTANCE OF 649.57 FEET TO THE POINT OF BEGINNING, SAID POINT BEING THE MOST EASTERLY CORNER OF SAID TRACT C (ALSO BEING ON THE WESTERLY RIGHT-OF-WAY LINE OF SOUTH TIMBERLINE ROAD);

THENCE ALONG THE SOUTHERLY BOUNDARY OF SAID TRACT C S89°57'23"W, A DISTANCE OF 11.00 FEET; 
THENCE N00°12'29"W, A DISTANCE OF 35.78 FEET; 
THENCE S90°00'00"W, A DISTANCE OF 6.49 FEET; 
THENCE N01°23'49"E, A DISTANCE OF 13.95 FEET; 
THENCE N00°58'32"W, A DISTANCE OF 11.10 FEET; 
THENCE N00°01'44"W, A DISTANCE OF 236.87 FEET; 
THENCE N89°47'31"E, A DISTANCE OF 5.51 FEET; 
THENCE N00°12'29"W, A DISTANCE OF 229.28 FEET; 
THENCE N88°26'41"W, A DISTANCE OF 20.37 FEET; 
THENCE N00°07'16"W, A DISTANCE OF 377.58 FEET; 
THENCE N41°56'17"E, A DISTANCE OF 45.89 FEET TO A POINT ON SAID WESTERLY RIGHT-OF-WAY LINE OF SOUTH TIMBERLINE ROAD; 
THENCE ALONG SAID WESTERLY RIGHT-OF-WAY LINE, S00°12'29"E, A DISTANCE OF 939.25 FEET TO THE POINT OF BEGINNING.

CONTAINING 19,617 SQUARE FEET (0.450 ACRES), MORE OR LESS, AND BEING SUBJECT
TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD OR THAT NOW EXIST ON THE GROUND.
AGENDA ITEM SUMMARY
September 1, 2020

STAFF
Nina Bodenhamer, City Give Director
Jackie Kozak-Thiel, Chief Sustainability Officer
Ingrid Decker, Legal

SUBJECT
First Reading of Ordinance No. 107, 2020, Appropriating Unanticipated Philanthropic Revenue Received by City Give for Transfer to Social Sustainability in the General Fund for the Equity Indicators Project.

EXECUTIVE SUMMARY
The purpose of this item is to appropriate $20,000 in philanthropic revenue in the General Fund for transfer to Social Sustainability for the support of the Equity Indicators project as designated by the donor, Bohemian Foundation. In a commitment to advance equitable outcomes, the City has selected CUNY Institute for State and Local Governance (ISLG) to lead an Equity Indicators project which will establish a framework for measuring and understanding the inequities that exist in Fort Collins.

STAFF RECOMMENDATION
Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION
In a commitment to advance equitable outcomes, the City will contract with CUNY Institute for State and Local Governance (ISLG) to lead an Equity Indicators project establishing a framework for measuring and understanding the inequities that exist in Fort Collins.

ISLG will collect and analyze data disaggregated by race, ethnicity, and other demographic factors to examine the broader landscape of disparities in outcomes in Fort Collins and work closely with the City and community to develop a set of Equity Indicators that will be used to track progress in reducing key disparities.

The project’s goal is to develop a baseline quantitative framework that can be used by City staff and community members alike to better measure inequities in our community, particularly equality gaps connected to racial justice.

While the Equity Indicators themselves cannot directly address inequities, they will inform the City’s equity work moving forward, and can help to increase transparency and accountability. It will enable the City to monitor changes in the disparities for different groups over time and will offer an opportunity for City staff and community members to work in collaboration to devise and implement course correction and celebrate progress.

Equity Indicators measure equality across multiple outcomes, including economy, education, health, housing and justice. The specific local measures will be determined and finalized once the project launches.

The grant is awarded by Bohemian Foundation, a Fort Collins-based private family foundation that supports local, national, and global efforts to build strong communities. Funding for Equity Indicators was awarded by
Bohemian Foundation’s Community Programs which is committed to the care and enrichment of our local community.

The City Manager recommends the appropriation described herein and determined that this appropriation is available and previously unappropriated from the General Fund and will not cause the total amount appropriated in the General Fund to exceed the current estimate of actual and anticipated revenues to be received in the General Fund during this fiscal year. He is also recommending the transfer described herein and has determined that the purpose for which the transferred funds are to be expended remains unchanged.

CITY FINANCIAL IMPACTS

This Ordinance will appropriate $20,000 of philanthropic revenue toward a total project budget of $80,000. The revenue is being appropriated into the General Fund for transfer to Social Sustainability, Sustainability Services. The remaining $60,000 was appropriated in 2020 through 2019 revision offers, for expenditure on this project in the General Fund. The funds have been received and accepted per City Give Administrative and Financial Policy.

PUBLIC OUTREACH

ISLG, in partnership with the City, will engage stakeholders throughout the Equity Indicators project to ensure that the data collection, analysis, and indicator development are responsive to the Fort Collins community and the equity work that has already been done.

This engagement will include two stages: In the first stage, ISLG will gather initial input from government stakeholders and data partners on key inequity issues and disaggregated data sources for a preliminary landscape analysis. The second stage will be a robust and inclusive engagement effort, including community listening sessions, an online survey, and other outreach methods, where community members can respond to the preliminary analysis and help to determine which inequity issues will be selected as Equity Indicators.
ORDINANCE NO. 107, 2020
OF THE COUNCIL OF THE CITY OF FORT COLLINS
APPROPRIATING UNANTICIPATED PHILANTHROPIC REVENUE RECEIVED BY
CITY GIVE FOR TRANSFER TO SOCIAL SUSTAINABILITY IN THE GENERAL FUND
FOR THE EQUITY INDICATORS PROJECT

WHEREAS, the City is preparing to launch the Equity Indictors project, through a
contract with the CUNY Institute for State and Local Governance, to collect and analyze data to
measure and understand inequities in Fort Collins (the “Project”); and

WHEREAS, the total Project budget is $80,000; and

WHEREAS, the Bohemian Foundation has awarded the City a grant of $20,000 to help
support the Project; and

WHEREAS, the remaining $60,000 of the Project budget is already appropriated and
available for expenditure in the General Fund; and

WHEREAS, this appropriation benefits public health, safety and welfare of the citizens
of Fort Collins and serves the public purpose of helping the City analyze disparities in outcomes
among City residents, particularly equality gaps connected to racial justice; and

WHEREAS, Article V, Section 9, of the City Charter permits the City Council to make
supplemental appropriations by ordinance at any time during the fiscal year, provided that the
total amount of such supplemental appropriations, in combination with all previous
appropriations for that fiscal year, does not exceed the current estimate of actual and anticipated
revenues to be received during the fiscal year; and

WHEREAS, the City Manager has recommended the appropriation described herein and
determined that these appropriations are available and previously unappropriated from the
General Fund and will not cause the total amount appropriated in the General Fund to exceed the
current estimate of actual and anticipated revenues to be received in these funds during the fiscal
year; and

WHEREAS, Article V, Section 10, of the City Charter authorizes the City Council to
transfer by ordinance any unexpended and unencumbered appropriated amount or portion thereof
from one fund or capital project account to another fund or capital project account, provided that
the purpose for which the transferred funds are to be expended remains unchanged; and

WHEREAS, the City Manager has recommended the transfer described herein and
determined that the purpose for which the transferred funds are to be expended remains unchanged.

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

Section 1. That the City Council hereby makes and adopts the determinations and
findings contained in the recitals set forth above.
Section 2. That there is hereby appropriated from unanticipated philanthropic revenue in the General Fund the sum of TWENTY THOUSAND DOLLARS ($20,000) for transfer to the Social Sustainability Department in the General Fund and appropriated therein for the Equity Indicators Project.

Introduced, considered favorably on first reading, and ordered published this 1st day of September, A.D. 2020, and to be presented for final passage on the 15th day of September, A.D. 2020.

__________________________________
Mayor

ATTEST:

__________________________________
City Clerk

Passed and adopted on final reading on the 15th day of September, A.D. 2020.

__________________________________
Mayor

ATTEST:

__________________________________
City Clerk
AGENDA ITEM SUMMARY
City Council

September 1, 2020

STAFF
Lisa Rosintoski, Utilities Deputy Director, Customer Connections
Jamie Gaskill, Sr. Supervisor, Project Management
Cyril Vidergar, Legal

SUBJECT

EXECUTIVE SUMMARY
The purpose of this item is to adopt changes to City Code to align with requirements in the 2020-2025 LEAP Vendor Agreement. Under current billing practices, utility bills are treated as a single customer account payment balance, and payments made to an account are applied equally across utility service products on that account. The Code changes will allow for Low-Income Energy Assistance Program (LEAP) payments to be applied only to electric service (as required in the 2020-2025 LEAP Vendor Agreement), even if a customer has other Fort Collins utility services (e.g., water, wastewater, stormwater and/or broadband).

These Code changes will enable Fort Collins Utilities to remain a LEAP Vendor which benefits the 200+ income-qualified customers that receive LEAP in two ways: (1) they get a more accurate benefit amount because Fort Collins Utilities is able to provide Estimated Home Heating Costs (EHHC) from which LEAP bases benefit calculations, and (2) it is more convenient for the customer because LEAP payments are automatically applied to a customer’s utility account.

STAFF RECOMMENDATION
Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION
LEAP Vendor Background

Fort Collins Utilities became a Low-Income Energy Assistance Program (LEAP) Vendor in 2016 as part of the City’s efforts to start the Income-Qualified Assistance Program. Instead of requiring customers to complete a separate qualification threshold, the Income-Qualified Assistance Program uses LEAP enrollment as the qualification criteria for eligible customers to receive discounted rates on select utility services. Although being a LEAP Vendor is not a requirement for Fort Collins Utilities to access data about LEAP customers, it enables the City to provide a more streamlined and comprehensive portfolio of low-income programs.

Background on Changes Needed to Maintain LEAP Vendor Status

During the process to renew the LEAP Vendor Agreement between the Colorado Department of Human Services (CDHS) and Fort Collins Utilities, staff discovered several requirements in the renewal Agreement that require the City to revise Code and processes to ensure compliance. Prior to staff and CDHS preparing the renewal Agreement, a federal audit of the LEAP program also revealed a need for LEAP vendors to provide more specific assurances to CDHS regarding how customer benefits were being applied. According to
the Agreement, LEAP benefit payments may only be applied to electric service products. To verify compliance with this requirement, City Code needs to be modified to state that 100% of LEAP payments may be applied to the electric service amounts due on a customer’s account, even if other utilities are received at a premise, and under the City’s general collection practices all monthly service fees are otherwise treated as a single payable amount.

Staff recommends clarifying the Code and payment processing practices for several reasons:

- Acting as a LEAP Vendor allows Fort Collins Utilities to offer a more comprehensive portfolio of low-income utility offerings.
- By remaining a LEAP Vendor, Fort Collins Utilities enables customers who receive LEAP payments to receive more accurate benefit amounts because Fort Collins Utilities can provide LEAP with Estimated Home Heating Costs (EHHC) that are based on past utility use at the premise where a LEAP recipient resides. Without the EHHC, LEAP recipients receive payments based on a default formula that may not resemble actual use at the premise where they reside.
- As a LEAP Vendor, Fort Collins Utilities applies LEAP payments directly to a customer’s utility account. If Fort Collins Utilities is no longer a LEAP Vendor, customers will receive LEAP benefits on an Electronic Benefits Transfer (EBT) card, which represents a form of payment not accepted by Fort Collins Utilities. In which case, customers must get cash out with the EBT card and then pay utility bills in-person, adding extra time and effort for the customer to pay utility bills using LEAP benefits, increasing barriers to program outcomes.

CITY FINANCIAL IMPACTS

This Code change will require staff time to execute. Under the separate LEAP Vendor Agreement, additional costs may be incurred to support manual processes until it is determined whether additional programming may be required for the new billing software to accommodate the requirement payment processes. There are no other known financial impacts to the City.

BOARD / COMMISSION RECOMMENDATION

The Energy Board reviewed the proposed Code changes at its regular August 13, 2020, meeting, and staff has incorporated the Board’s feedback.

The Water Board was presented with the proposed Code changes via a Memorandum during the week of August 17, 2020, and staff has incorporated the Board’s feedback.

ATTACHMENTS

1. LEAP Vendor Agreement (PDF)
2020-2025 APPROVED METERED FUEL VENDOR DATA INFORMATION

1. Enter the complete vendor/business name: ______________________________________________
   ___________________________________________________________________________________

2. Enter the company FEIN (Federal Identification Number): _________________________________

3. Enter the business mailing address (including zip code): ________________________________
   ___________________________________________________________________________________

4. Enter the names direct phone numbers and email addresses of at least two contacts for your business:
   Name: _____________________ Email: _________________________ Phone: __________________
   Name: ______________________ Email: ________________________ Phone:  __________________

5. Enter the business fax number(s) for contact: ___________________________________________

6. Enter the LEAP Vendor Number (provided by the State LEAP Office): ____________________

Please place a check by the Colorado counties which your business serves:

- Adams (01)
- Alamosa (02)
- Arapahoe (03)
- Archuleta (04)
- Baca (05)
- Bent (06)
- Boulder (07)
- Chaffee (08)
- Cheyenne (09)
- Clear Creek (10)
- Conejos (11)
- Costilla (12)
- Crowley (13)
- Custer (14)
- Delta (15)
- Denver (16)
- Dolores (17)
- Douglas (18)
- Eagle (19)
- Elbert (20)
- El Paso (21)
- Fremont (22)
- Garfield (23)
- Gilpin (24)
- Grand (25)
- Gunnison (26)
- Hinsdale (27)
- Huerfano (28)
- Jackson (29)
- Jefferson (30)
- Kiowa (31)
- Kit Carson (32)
- Las Animas (33)
- La Plata (34)
- Larimer (35)
- Logan (36)
- Mesa (37)
- Moffat (38)
- Montezuma (39)
- Montrose (40)
- Morgan (41)
- Ouray (42)
- Park (43)
- Phillips (44)
- Pitkin (49)
- Prowers (50)
- Pueblo (51)
- Rio Blanco (52)
- Rio Grande (53)
- Routt (54)
- Saguache (55)
- San Juan (56)
- San Miguel (57)
- Sedgwick (58)
- Summit (59)
- Teller (60)
- Washington (61)
- Weld (62)
- Yuma (63)
- Broomfield (80)

7. Please place a check by the type(s) of fuel service provided by your business:
   Natural Gas:____  Electric:_____
LOW-INCOME ENERGY ASSISTANCE PROGRAM (LEAP)
METERED FUEL VENDOR AGREEMENT

Agreement made by and between the State of Colorado, Department of Human Services (hereinafter referred to as the State Department) and

(hereinafter referred to as the Vendor).

Persons signing for the Vendor hereby swear and affirm that they are authorized to act on the Vendor’s behalf and acknowledge that the State is relying on their representations to that effect. By the signature below, the Vendor acknowledges that it has read, understands, and agrees to this Agreement.

__________________________      ____________________________
Vendor Representative Name      Vendor Signature

Date

WHEREAS, the Low-Income Home Energy Assistance Act of 1981 (P.L. 97-35) provides for home energy assistance to eligible households; and

WHEREAS, the purpose of Colorado’s Low-Income Energy Assistance Program (LEAP) is to help low-income Coloradans meet their winter home heating costs; and

WHEREAS, the parties hereto desire to establish an arrangement to carry out the provisions of this Act and to assure that funds available under this Act are used in accordance therewith,

NOW, therefore it is hereby mutually agreed:

A. Offer/Acceptance. This LEAP Metered Fuel Vendor Agreement ("Agreement") is between the State Department and the Vendor. This Agreement is effective upon the Vendor’s signature and performance shall start on or after October 1, 2020.

B. The following definitions shall apply in the interpretation of this Agreement:

1. “County Department” means the County Department of Human/Social Services of a particular county as designated by the State Department. For the purposes hereof, when the County Department is so designated by the State Department, the Vendor may consider, interact, and deal with such County Department as the authorized agent of the State Department.

2. “Designee” means any County Department or contractor determining eligibility for the program.

3. “Electronic Funds Transfer” (EFT) is the method used to pay LEAP assistance benefits.

4. “Eligibility Period” means there shall be one eligibility period for the Basic Low-Income Energy Assistance Programs from November 1st through April 30th. If April 30th for a particular calendar year falls on a holiday or weekend, then the eligibility period shall be
extended until midnight the next business day. This program is contingent upon the continued availability of funds in accordance with 9 CCR 2503-7.

5. “Eligible Household” is a Household that has applied for and been approved for LEAP assistance benefits and for whom the Vendor has been notified by the County Department, the State Department, or its designee that payment will be made to the Vendor on behalf of the Household.

6. “Estimated Home Heating Costs (EHHC)” are the amount of the heating costs incurred during the previous heating season for the program applicant’s address at the time of application to be used as an estimate, or projection, of the anticipated heating costs for the current heating season (November 1st through April 30th). Such estimated heating costs shall not include payment arrearages, investigative charges, reconnection fees, or other such charges not related to residential fuel prices and consumption levels. EHHC may be provided if the Vendor has serviced the service address; it is not required that the Household applying for LEAP assistance benefits lived at the service address during the previous heating season.

7. “Good Faith Effort” is a documented attempt to reach Eligible Households through phone contacts, written correspondence and/or personal visits.

8. “Heat Related Arrearage” means any past due amounts for the primary heating fuel and/or supportive fuel.

9. “Home Heating Costs” are charges directly related to the primary heating source used in a residential dwelling.

10. “Household” means any individual or group of individuals who are living together as one economic unit for whom primary heating fuel is customarily purchased in common or who make undesignated payments for heat in the form of rent.

11. “Non-Bulk Fuel” or “Metered Fuel” is an energy source for home heating which is provided by a utility company and is regulated and metered by the utility company. Normally, non-bulk fuel includes natural gas and electricity.

12. “Overpayment” means a Household received benefits in excess of the amount due to that Household based on eligibility and payment determination in accordance with LEAP rules.

13. “Primary Heating Fuel” is the main type of fuel used to provide heat within the dwelling.

14. “Primary Heating Source” is the primary heating system that provides heat to the dwelling such as a furnace, wood burning stove or boiler. Temporary or portable heating sources are not considered a primary heating source and, therefore, are not eligible for LEAP assistance.

15. “Program Year” means from November 1st through April 30th for the Heating Fuel Assistance Program. If April 30th for a particular calendar year falls on a holiday or weekend, then the eligibility period shall be extended until midnight the next business
day. This program is contingent upon the continued availability of funds in accordance with 9 CCR 2503-7.

16. “Program Applicant” means a person or household that has applied for LEAP benefit assistance.

17. “State Department” means the Colorado Department of Human Services, Low-Income Energy Assistance Program or its designees.

18. “Supportive Fuel” means an energy source needed to operate the primary heating system in a residential setting. For example, electricity may be a supportive fuel required to operate a natural gas furnace.

19. “Tampering” or “Tampered Account” means unlawfully or unauthorized adjustment of fuel to the Household by altering equipment such as a gas or electric meter.

C. The Vendor agrees to abide by the following provisions:

1. The Vendor shall notify the State Department at least 30 days prior to any change in business ownership, name, address, Vendor contact information and banking information.

2. The Vendor shall not treat a Household receiving assistance under the program adversely because of such assistance.

3. The Vendor shall not discriminate, either in the cost of the goods supplied or the services provided, against the Household on whose behalf payments are made.

4. The Vendor shall provide County Departments or their designees documented Estimated Home Heating Costs for the period of November 1st through April 30th of the previous year for any Household using their service. Such costs shall be based on historical usage and such costs shall be provided to the County Department or its designee within five (5) business days of the request. If the program applicant is without heat, the Vendor shall provide Estimated Home Heating Costs within 24 hours of the request. If the Vendor refuses to provide Estimated Home Heating Costs for a Household, the County Department or its designee shall make any payments to the Eligible Household instead of the Vendor, unless the Vendor documents that such data are not available. The State Department reserves the right to audit Vendor estimating procedures and to terminate the Vendor Agreement if estimates are found to be inaccurate or inappropriate.

5. Upon notification from the County Department or its designee that an application has been received for a Household pending service disruption, the Vendor shall not terminate services to the Household for ten (10) working days or until the Vendor is notified of the eligibility determination of the Household, whichever occurs first.

6. Upon receipt of LEAP assistance benefits from the State Department and on behalf of an Eligible Household, the Vendor shall credit the Eligible Household’s account promptly and no later than ten (10) business days after a payment is received. Credit will be reflected in the next normal billing.
7. Upon notification by the County Department, State Department, or its designee or discovery by the Vendor of incorrect payments or overpayments, the Vendor shall reimburse those payments to the County Department or its designee within ten (10) business days. The Vendor shall accompany all payments returned to the State Department with the Vendor name, the Household’s name, the Household account number, the amount returned on behalf of the Household and the date and reason for return by the Vendor. Checks returned to the State Department should be made out to “State of Colorado.” Checks returned to the County Department or its designee should be made out per the County Department or designee’s direction.

8. Once notified by the State Department, the County Department, or a designee (notification may include the Vendor verifying approvals by accessing the LEAP system website) that a Household has been approved for LEAP assistance benefits, the Vendor shall:

i. Initiate, continue or restore service, whichever is applicable to the Eligible Household, within 24 hours of notification and continue utility services for at least sixty (60) days after such notification, unless:

1. the Eligible Household is in a pending shutoff situation and the Basic LEAP program year benefit is an amount less than 25% of the Household’s arrearage, or
2. the Eligible Household is shut off and the Basic LEAP program year benefit amount is less than 50% of the Household’s arrearage, or
3. The Eligible Household pre-pays for its electric service. In this case, the Vendor shall initiate, continue, or restore service, whichever is applicable to the Eligible Household, within 24 hours of notification and continue utility services until the LEAP assistance benefit has been exhausted.

ii. If a LEAP assistance benefit is offered on an account that has been disconnected due to tampering of gas or electric service, the Vendor shall restore service only if the LEAP payment exceeds 70% of the past due amount. If a LEAP payment is offered on a tampered account and it is for less than 70% of the past due amount, the Vendor reserves the right to not accept the LEAP assistance benefit for purposes of restoring service. If payment is not accepted for reconnection, the benefit will instead be provided to the Eligible Household as a direct client pay. The Vendor may accept a LEAP payment that is less than 70% of the past due amount but must as a condition of acceptance restore service and make arrangements with the Household to pay any remaining balance.

iii. If the Vendor refuses to accept the LEAP program year benefit, the Vendor shall notify the State or its designee within three (3) business days and send written notice to the Eligible Household advising them the payment will not be accepted and no holds/reconnection will be offered. The benefit shall be paid to the Eligible Household as a direct client pay.

9. Death of a payee. If a LEAP program applicant dies and a benefit has been paid, the Vendor shall make any remaining LEAP credit balance available to any other member of
the LEAP program applicant Household for a period of 30 days. If the LEAP program applicant is the only Household member, the Vendor shall maintain any credit balance for a period of 30 days. The executor of the program applicant’s estate may claim the LEAP credit balance within this 30-day period. If the LEAP credit balance is not claimed within 30 days’ notice to the Vendor of the program applicant’s death, the Vendor shall notify the State Department and forward the credit balance to:

State LEAP Office
1120 Lincoln Street, Suite 1007
Denver, CO 80203

10. The Vendor shall maintain confidentiality of information provided by the State Department, or its designee, about a Household’s benefit in accordance with applicable Federal and State Laws.

11. The Vendor shall return any payments that cannot be credited to an account within ten (10) business days to the County Department, or its designee.

12. The Vendor shall allow all LEAP credit balances to remain on the client’s account until the LEAP assistance benefit is exhausted, unless the Household no longer uses the originally approved Vendor.

13. When a Household no longer uses the originally approved Vendor, the Vendor shall make a Good Faith Effort to locate the Household.

14. If the Household is located, the Vendor shall forward the LEAP credit balance directly to the Household within ten (10) business days.

15. If the Household cannot be located within thirty (30) business days, the Vendor shall keep the funds available for the Household for the remainder of the current state fiscal year, which ends on June 30th. On July 1st, the Vendor shall forward any LEAP credit balance to the State Department at 1120 Lincoln Street, Suite 1007, Denver, CO 80203. These credits must be received by the State Department no later than July 10th. If a client moves or no longer uses the originally approved Vendor after June 30th, the Vendor shall forward any LEAP credit balance to the State Department on October 1st. These credits must be received by the State Department no later than October 10th.

16. Upon State Department request, or its designee’s request, the Vendor must return LEAP credit balances to the State Department within ten (10) business days of the request.

17. The Vendor shall accompany all payments returned to the State Department with a notification showing the Vendor name, the Household’s name, the Household’s account number, the amount returned on behalf of the Household and the date and reason for return by the Vendor. Checks returned to the State Department must be made out to “State of Colorado.”

18. If the Vendor has sent the LEAP credit balance funds to the Household, and a recovery is necessary, the County Department or its designee will recover from the Household, not the Vendor.
19. The Vendor shall report any financial fraud or abuse or misconduct in the administration of LEAP to the State Department. The Vendor shall cooperate with all State investigations of suspected fraud or abuse or misconduct. The Vendor may be prosecuted under applicable Federal and State laws for false claims, statements or documents or concealment of material fact.

20. All other requirements of Federal and State laws and regulations shall be adhered to.

21. The Vendor shall provide all customers subject to utility shutoff, who are financially unable to purchase fuel, or who request a LEAP application to the HEAT HELP telephone line (1-866-432-8435), or the State Department website at: colorado.gov/cdhs/leap.

22. The Vendor shall establish such fiscal control and fund accounting procedures as may be necessary to assure the proper use and accounting of funds under this Agreement. All records maintained by the Vendor relating to this Agreement shall be available on reasonable notice for inspection, audit or other examination and copying, by State Department representatives or their delegates. Such records shall show the amount of home energy delivered to each Eligible Household, the amount of payments made for home energy by such Eligible Households, the dollar value of credit received on behalf of each Eligible Household, the balance of available benefits and energy costs, and all documents and calculations in establishing the estimated Home Heating Costs. All records shall be maintained for a period of three (3) years following the termination of this Agreement. The State, or its designee, reserves the right to monitor the implementation of this Agreement by the Vendor.

23. The Vendor shall provide a monthly reconciliation report to the State Department verifying that each payment received on behalf of an Eligible Household is applied to the appropriate account within two weeks of the State Department payroll dates.

24. The Vendor shall provide annual natural gas/electric billing and consumption data for each Eligible Household who has resided at the same service address for the October 1 through September 30 reporting period, when applicable.

25. Non-compliance by the Vendor with any of the above assurances of this Agreement or applicable law or regulations shall be grounds for immediate termination of this Agreement. Such termination shall include termination of payments on behalf of Eligible Households and immediate return of credit balances or refunds owed to the State Department. Such termination is in addition to all other legal remedies available to the State Department, including investigation or prosecution of fraud in connection with this agreement.

26. All Vendors shall establish an account with a financial institution to receive payments via direct deposit through electronic funds transfer (EFT). The Vendor shall inform the State Department of any changes in banking information immediately upon the change.

27. All Vendors shall establish internet access to retrieve LEAP program applicant approval information and LEAP assistance benefit payment data from the State LEAP system website.
28. LEAP assistance benefit payments shall not be made to the Vendor on behalf of an Eligible Household if:

i. The Eligible Household does not pay the Vendor directly for its home heating costs; or
ii. This Agreement has not been executed or has expired or been terminated; or
iii. The Eligible Household’s Vendor cannot be determined or feasibly paid on behalf of the Eligible Household.

29. By signature of this Agreement, the Vendor agrees to abide by the HIPAA Business Associate Agreement, attached as Exhibit A.

D. The State Department shall itself or through the County Department, or its designee, as the case may be:

1. Promptly advise the Vendor of the name, address, account number, if any, and amount to credit to the account of each Eligible Household and provide the Vendor with a password to retrieve payroll information from the LEAP system website;

2. Notify all Eligible Households of the amount of LEAP assistance benefits to be made on their behalf to the Vendor;

3. Make timely payments to the Vendor for credit to Eligible Households for home energy supplied in accordance with the terms of this Agreement; and

4. Promptly notify the Vendor of all pertinent changes in this program caused by changes in applicable law, regulations, or technology.

E. General Provisions:

1. The term of this Agreement shall be October 1, 2020 (or upon signed approval of this Agreement by the Vendor, whichever is later) through September 30, 2025.

2. This Agreement is subject to and contingent upon the continuing availability of federal funds. If insufficient funds, as determined by the State Department, are available for this program, the State Department may immediately terminate this Agreement.

3. This Agreement may be terminated by either party upon 30 days prior written notice to the other party sent by certified or registered mail.

4. The Vendor may not assign this Agreement without the prior written consent of the State Department.

5. The Vendor shall comply with all applicable Federal and State laws and regulations, including confidentiality of all records, termination and restoration of home energy service, and discrimination. The Vendor certifies that it has all licenses, insurance, and so on required by law for the provision of services hereunder.

6. If a situation arises that is not clearly covered by the terms of this Agreement, the Vendor shall seek guidance from the State Department.
EXHIBIT A - HIPAA BUSINESS ASSOCIATE AGREEMENT

This HIPAA Business Associate Agreement (“Agreement”) between the State and Contractor is agreed to in connection with, and as an exhibit to, the Contract. For purposes of this Agreement, the State is referred to as “Covered Entity” and the Contractor is referred to as “Business Associate”. Unless the context clearly requires a distinction between the Contract and this Agreement, all references to “Contract” shall include this Agreement.

1. PURPOSE

Covered Entity wishes to disclose information to Business Associate, which may include Protected Health Information ("PHI"). The Parties intend to protect the privacy and security of the disclosed PHI in compliance with the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), Pub. L. No. 104-191 (1996) as amended by the Health Information Technology for Economic and Clinical Health Act (“HITECH Act”) enacted under the American Recovery and Reinvestment Act of 2009 (“ARRA”) Pub. L. No. 111–5 (2009), implementing regulations promulgated by the U.S. Department of Health and Human Services at 45 C.F.R. Parts 160, 162 and 164 (the “HIPAA Rules”) and other applicable laws, as amended. Prior to the disclosure of PHI, Covered Entity is required to enter into an agreement with Business Associate containing specific requirements as set forth in, but not limited to, Title 45, Sections 160.103, 164.502(e) and 164.504(e) of the Code of Federal Regulations (“C.F.R.”) and all other applicable laws and regulations, all as may be amended.

2. DEFINITIONS

The following terms used in this Agreement shall have the same meanings as in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required by Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.

The following terms used in this Agreement shall have the meanings set forth below:

a. **Business Associate.** “Business Associate” shall have the same meaning as the term “business associate” at 45 C.F.R. 160.103, and shall refer to Contractor.

b. **Covered Entity.** “Covered Entity” shall have the same meaning as the term “covered entity” at 45 C.F.R. 160.103, and shall refer to the State.

c. **Information Technology and Information Security.** “Information Technology” and “Information Security” shall have the same meanings as the terms “information technology” and “information security”, respectively, in §24-37.5-102, C.R.S.

Capitalized terms used herein and not otherwise defined herein or in the HIPAA Rules shall have the meanings ascribed to them in the Contract.

3. OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE

a. **Permitted Uses and Disclosures.**

 i. Business Associate shall use and disclose PHI only to accomplish Business Associate’s obligations under the Contract.
i. To the extent Business Associate carries out one or more of Covered Entity’s obligations under Subpart E of 45 C.F.R. Part 164, Business Associate shall comply with any and all requirements of Subpart E that apply to Covered Entity in the performance of such obligation.

ii. Business Associate may disclose PHI to carry out the legal responsibilities of Business Associate, provided, that the disclosure is Required by Law or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that:

   A. the information will remain confidential and will be used or disclosed only as Required by Law or for the purpose for which Business Associate originally disclosed the information to that person, and;

   B. the person notifies Business Associate of any Breach involving PHI of which it is aware.

iii. Business Associate may provide Data Aggregation services relating to the Health Care Operations of Covered Entity. Business Associate may de-identify any or all PHI created or received by Business Associate under this Agreement, provided the de-identification conforms to the requirements of the HIPAA Rules.

b. Minimum Necessary. Business Associate, its Subcontractors and agents, shall access, use, and disclose only the minimum amount of PHI necessary to accomplish the objectives of the Contract, in accordance with the Minimum Necessary Requirements of the HIPAA Rules including, but not limited to, 45 C.F.R. 164.502(b) and 164.514(d).

c. Impermissible Uses and Disclosures.

   i. Business Associate shall not disclose the PHI of Covered Entity to another covered entity without the written authorization of Covered Entity.

   ii. Business Associate shall not share, use, disclose or make available any Covered Entity PHI in any form via any medium with or to any person or entity beyond the boundaries or jurisdiction of the United States without express written authorization from Covered Entity.

d. Business Associate's Subcontractors.

   i. Business Associate shall, in accordance with 45 C.F.R. 164.502(e)(1)(ii) and 164.308(b)(2), ensure that any Subcontractors who create, receive, maintain, or transmit PHI on behalf of Business Associate agree in writing to the same restrictions, conditions, and requirements that apply to Business Associate with respect to safeguarding PHI.

   ii. Business Associate shall provide to Covered Entity, on Covered Entity’s request, a list of Subcontractors who have entered into any such agreement with Business Associate.

   iii. Business Associate shall provide to Covered Entity, on Covered Entity’s request, copies of any such agreements Business Associate has entered into with Subcontractors.

e. Access to System. If Business Associate needs access to a Covered Entity Information Technology system to comply with its obligations under the Contract or this Agreement, Business Associate shall request, review, and comply with any and all policies applicable to Covered Entity regarding such
system including, but not limited to, any policies promulgated by the Office of Information Technology and available at http://oit.state.co.us/about/policies.

f. **Access to PHI.** Business Associate shall, within ten days of receiving a written request from Covered Entity, make available PHI in a Designated Record Set to Covered Entity as necessary to satisfy Covered Entity’s obligations under 45 C.F.R. 164.524.

g. **Amendment of PHI.**

i. Business Associate shall within ten days of receiving a written request from Covered Entity make any amendment to PHI in a Designated Record Set as directed by or agreed to by Covered Entity pursuant to 45 C.F.R. 164.526, or take other measures as necessary to satisfy Covered Entity’s obligations under 45 C.F.R. 164.526.

ii. Business Associate shall promptly forward to Covered Entity any request for amendment of PHI that Business Associate receives directly from an Individual.

h. **Accounting Rights.** Business Associate shall, within ten days of receiving a written request from Covered Entity, maintain and make available to Covered Entity the information necessary for Covered Entity to satisfy its obligations to provide an accounting of Disclosure under 45 C.F.R. 164.528.

i. **Restrictions and Confidential Communications.**

   i. Business Associate shall restrict the Use or Disclosure of an Individual’s PHI within ten days of notice from Covered Entity of:

      A. a restriction on Use or Disclosure of PHI pursuant to 45 C.F.R. 164.522; or

      B. a request for confidential communication of PHI pursuant to 45 C.F.R. 164.522.

   ii. Business Associate shall not respond directly to an Individual’s requests to restrict the Use or Disclosure of PHI or to send all communication of PHI to an alternate address.

   iii. Business Associate shall refer such requests to Covered Entity so that Covered Entity can coordinate and prepare a timely response to the requesting Individual and provide direction to Business Associate.

j. **Governmental Access to Records.** Business Associate shall make its facilities, internal practices, books, records, and other sources of information, including PHI, available to the Secretary for purposes of determining compliance with the HIPAA Rules in accordance with 45 C.F.R. 160.310.

k. **Audit, Inspection and Enforcement.**

i. Business Associate shall obtain and update at least annually a written assessment performed by an independent third party reasonably acceptable to Covered Entity, which evaluates the Information Security of the applications, infrastructure, and processes that interact with the Covered Entity data Business Associate receives, manipulates, stores and distributes. Upon request by Covered Entity, Business Associate shall provide to Covered Entity the executive summary of the assessment.
ii. Business Associate, upon the request of Covered Entity, shall fully cooperate with Covered Entity’s efforts to audit Business Associate’s compliance with applicable HIPAA Rules. If, through audit or inspection, Covered Entity determines that Business Associate’s conduct would result in violation of the HIPAA Rules or is in violation of the Contract or this Agreement, Business Associate shall promptly remedy any such violation and shall certify completion of its remedy in writing to Covered Entity.

1. Appropriate Safeguards.

   i. Business Associate shall use appropriate safeguards and comply with Subpart C of 45 C.F.R. Part 164 with respect to electronic PHI to prevent use or disclosure of PHI other than as provided in this Agreement.

   ii. Business Associate shall safeguard the PHI from tampering and unauthorized disclosures.

   iii. Business Associate shall maintain the confidentiality of passwords and other data required for accessing this information.

   iv. Business Associate shall extend protection beyond the initial information obtained from Covered Entity to any databases or collections of PHI containing information derived from the PHI. The provisions of this section shall be in force unless PHI is de-identified in conformance to the requirements of the HIPAA Rules.

m. Safeguard During Transmission.

   i. Business Associate shall use reasonable and appropriate safeguards including, without limitation, Information Security measures to ensure that all transmissions of PHI are authorized and to prevent use or disclosure of PHI other than as provided for by this Agreement.

   ii. Business Associate shall not transmit PHI over the internet or any other insecure or open communication channel unless the PHI is encrypted or otherwise safeguarded with a FIPS-compliant encryption algorithm.

n. Reporting of Improper Use or Disclosure and Notification of Breach.

   i. Business Associate shall, as soon as reasonably possible, but immediately after discovery of a Breach, notify Covered Entity of any use or disclosure of PHI not provided for by this Agreement, including a Breach of Unsecured Protected Health Information as such notice is required by 45 C.F.R. 164.410 or a breach for which notice is required under §24-73-103, C.R.S.

   ii. Such notice shall include the identification of each Individual whose Unsecured Protected Health Information has been, or is reasonably believed by Business Associate to have been, accessed, acquired, or disclosed during such Breach.

   iii. Business Associate shall, as soon as reasonably possible, but immediately after discovery of any Security Incident that does not constitute a Breach, notify Covered Entity of such incident.
iv. Business Associate shall have the burden of demonstrating that all notifications were made as required, including evidence demonstrating the necessity of any delay.

o. Business Associate’s Insurance and Notification Costs.

i. Business Associate shall bear all costs of a Breach response including, without limitation, notifications, and shall maintain insurance to cover:

A. loss of PHI data;

B. Breach notification requirements specified in HIPAA Rules and in §24-73-103, C.R.S.; and

C. claims based upon alleged violations of privacy rights through improper use or disclosure of PHI.

ii. All such policies shall meet or exceed the minimum insurance requirements of the Contract or otherwise as may be approved by Covered Entity (e.g., occurrence basis, combined single dollar limits, annual aggregate dollar limits, additional insured status, and notice of cancellation).

iii. Business Associate shall provide Covered Entity a point of contact who possesses relevant Information Security knowledge and is accessible 24 hours per day, 7 days per week to assist with incident handling.

iv. Business Associate, to the extent practicable, shall mitigate any harmful effect known to Business Associate of a Use or Disclosure of PHI by Business Associate in violation of this Agreement.

p. Subcontractors and Breaches.

i. Business Associate shall enter into a written agreement with each of its Subcontractors and agents, who create, receive, maintain, or transmit PHI on behalf of Business Associate. The agreements shall require such Subcontractors and agents to report to Business Associate any use or disclosure of PHI not provided for by this Agreement, including Security Incidents and Breaches of Unsecured Protected Health Information, on the first day such Subcontractor or agent knows or should have known of the Breach as required by 45 C.F.R. 164.410.

ii. Business Associate shall notify Covered Entity of any such report and shall provide copies of any such agreements to Covered Entity on request.

q. Data Ownership.

i. Business Associate acknowledges that Business Associate has no ownership rights with respect to the PHI.

ii. Upon request by Covered Entity, Business Associate immediately shall provide Covered Entity with any keys to decrypt information that the Business Association has encrypted and maintains in encrypted form, or shall provide such information in unencrypted usable form.
r. **Retention of PHI.** Except upon termination of this Agreement as provided in Section 5, below, Business Associate and its Subcontractors or agents shall retain all PHI throughout the term of this Agreement, and shall continue to maintain the accounting of disclosures required under Section 3.h, above, for a period of six years.

4. **OBLIGATIONS OF COVERED ENTITY**

a. **Safeguards During Transmission.** Covered Entity shall be responsible for using appropriate safeguards including encryption of PHI, to maintain and ensure the confidentiality, integrity, and security of PHI transmitted pursuant to this Agreement, in accordance with the standards and requirements of the HIPAA Rules.

b. **Notice of Changes.**

   i. Covered Entity maintains a copy of its Notice of Privacy Practices on its website. Covered Entity shall provide Business Associate with any changes in, or revocation of, permission to use or disclose PHI, to the extent that it may affect Business Associate’s permitted or required uses or disclosures.

   ii. Covered Entity shall notify Business Associate of any restriction on the use or disclosure of PHI to which Covered Entity has agreed in accordance with 45 C.F.R. 164.522, to the extent that it may affect Business Associate’s permitted use or disclosure of PHI.

5. **TERMINATION**

a. **Breach.**

   i. In addition to any Contract provision regarding remedies for breach, Covered Entity shall have the right, in the event of a breach by Business Associate of any provision of this Agreement, to terminate immediately the Contract, or this Agreement, or both.

   ii. Subject to any directions from Covered Entity, upon termination of the Contract, this Agreement, or both, Business Associate shall take timely, reasonable, and necessary action to protect and preserve property in the possession of Business Associate in which Covered Entity has an interest.

b. **Effect of Termination.**

   i. Upon termination of this Agreement for any reason, Business Associate, at the option of Covered Entity, shall return or destroy all PHI that Business Associate, its agents, or its Subcontractors maintain in any form, and shall not retain any copies of such PHI.

   ii. If Covered Entity directs Business Associate to destroy the PHI, Business Associate shall certify in writing to Covered Entity that such PHI has been destroyed.

   iii. If Business Associate believes that returning or destroying the PHI is not feasible, Business Associate shall promptly provide Covered Entity with notice of the conditions making return or destruction infeasible. Business Associate shall continue to extend the protections of...
Section 3 of this Agreement to such PHI, and shall limit further use of such PHI to those purposes that make the return or destruction of such PHI infeasible.

6. **INJUNCTIVE RELIEF**

Covered Entity and Business Associate agree that irreparable damage would occur in the event Business Associate or any of its Subcontractors or agents use or disclosure of PHI in violation of this Agreement, the HIPAA Rules or any applicable law. Covered Entity and Business Associate further agree that money damages would not provide an adequate remedy for such Breach. Accordingly, Covered Entity and Business Associate agree that Covered Entity shall be entitled to injunctive relief, specific performance, and other equitable relief to prevent or restrain any Breach or threatened Breach of and to enforce specifically the terms and provisions of this Agreement.

7. **LIMITATION OF LIABILITY**

Any provision in the Contract limiting Contractor’s liability shall not apply to Business Associate’s liability under this Agreement, which shall not be limited.

8. **DISCLAIMER**

Covered Entity makes no warranty or representation that compliance by Business Associate with this Agreement or the HIPAA Rules will be adequate or satisfactory for Business Associate’s own purposes. Business Associate is solely responsible for all decisions made and actions taken by Business Associate regarding the safeguarding of PHI.

9. **CERTIFICATION**

Covered Entity has a legal obligation under HIPAA Rules to certify as to Business Associate’s Information Security practices. Covered Entity or its authorized agent or contractor shall have the right to examine Business Associate’s facilities, systems, procedures, and records, at Covered Entity’s expense, if Covered Entity determines that examination is necessary to certify that Business Associate’s Information Security safeguards comply with the HIPAA Rules or this Agreement.

10. **AMENDMENT**

   a. **Amendment to Comply with Law.** The Parties acknowledge that state and federal laws and regulations relating to data security and privacy are rapidly evolving and that amendment of this Agreement may be required to provide procedures to ensure compliance with such developments.

      i. In the event of any change to state or federal laws and regulations relating to data security and privacy affecting this Agreement, the Parties shall take such action as is necessary to implement the changes to the standards and requirements of HIPAA, the HIPAA Rules and other applicable rules relating to the confidentiality, integrity, availability and security of PHI with respect to this Agreement.

      ii. Business Associate shall provide to Covered Entity written assurance satisfactory to Covered Entity that Business Associate shall adequately safeguard all PHI, and obtain
written assurance satisfactory to Covered Entity from Business Associate’s Subcontractors and agents that they shall adequately safeguard all PHI.

iii. Upon the request of either Party, the other Party promptly shall negotiate in good faith the terms of an amendment to the Contract embodying written assurances consistent with the standards and requirements of HIPAA, the HIPAA Rules, or other applicable rules.

iv. Covered Entity may terminate this Agreement upon 30 days’ prior written notice in the event that:

A. Business Associate does not promptly enter into negotiations to amend the Contract and this Agreement when requested by Covered Entity pursuant to this Section; or

B. Business Associate does not enter into an amendment to the Contract and this Agreement, which provides assurances regarding the safeguarding of PHI sufficient, in Covered Entity’s sole discretion, to satisfy the standards and requirements of the HIPAA, the HIPAA Rules and applicable law.

b. Amendment of Appendix. The Appendix to this Agreement may be modified or amended by the mutual written agreement of the Parties, without amendment of this Agreement. Any modified or amended Appendix agreed to in writing by the Parties shall supersede and replace any prior version of the Appendix.

11. ASSISTANCE IN LITIGATION OR ADMINISTRATIVE PROCEEDINGS

Covered Entity shall provide written notice to Business Associate if litigation or administrative proceeding is commenced against Covered Entity, its directors, officers, or employees, based on a claimed violation by Business Associate of HIPAA, the HIPAA Rules or other laws relating to security and privacy or PHI. Upon receipt of such notice and to the extent requested by Covered Entity, Business Associate shall, and shall cause its employees, Subcontractors, or agents assisting Business Associate in the performance of its obligations under the Contract to, assist Covered Entity in the defense of such litigation or proceedings. Business Associate shall, and shall cause its employees, Subcontractor’s and agents to, provide assistance, to Covered Entity, which may include testifying as a witness at such proceedings. Business Associate or any of its employees, Subcontractors or agents shall not be required to provide such assistance if Business Associate is a named adverse party.

12. INTERPRETATION AND ORDER OF PRECEDENCE

Any ambiguity in this Agreement shall be resolved in favor of a meaning that complies and is consistent with the HIPAA Rules. In the event of an inconsistency between the Contract and this Agreement, this Agreement shall control. This Agreement supersedes and replaces any previous, separately executed HIPAA business associate agreement between the Parties.

13. SURVIVAL

Provisions of this Agreement requiring continued performance, compliance, or effect after termination shall survive termination of this contract or this agreement and shall be enforceable by Covered Entity.
APPENDIX TO HIPAA BUSINESS ASSOCIATE AGREEMENT

This Appendix (“Appendix”) to the HIPAA Business Associate Agreement (“Agreement”) is an appendix to the Contract and the Agreement. For the purposes of this Appendix, defined terms shall have the meanings ascribed to them in the Agreement and the Contract.

Unless the context clearly requires a distinction between the Contract, the Agreement, and this Appendix, all references to “Contract” or “Agreement” shall include this Appendix.

1. PURPOSE

This Appendix sets forth additional terms to the Agreement. Any sub-section of this Appendix marked as “Reserved” shall be construed as setting forth no additional terms.

2. ADDITIONAL TERMS

a. Additional Permitted Uses. In addition to those purposes set forth in the Agreement, Business Associate may use PHI for the following additional purposes:
   i. Reserved.

b. Additional Permitted Disclosures. In addition to those purposes set forth in the Agreement, Business Associate may disclose PHI for the following additional purposes:
   i. Reserved.

c. Approved Subcontractors. Covered Entity agrees that the following Subcontractors or agents of Business Associate may receive PHI under the Agreement:
   i. Reserved.

d. Definition of Receipt of PHI. Business Associate’s receipt of PHI under this Contract shall be deemed to occur, and Business Associate’s obligations under the Agreement shall commence, as follows:
   i. Reserved.

e. Additional Restrictions on Business Associate. Business Associate agrees to comply with the following additional restrictions on Business Associate’s use and disclosure of PHI under the Contract:
   i. Reserved.

f. Additional Terms. Business Associate agrees to comply with the following additional terms under the Agreement:
   i. Reserved.
ORDINANCE NO. 108, 2020
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING CHAPTER 26 OF THE CODE OF THE CITY OF FORT COLLINS
TO CLARIFY UTILITY ACCOUNTS, BILLING AND COLLECTIONS

WHEREAS, the City Council is empowered and directed by Article XII, Section 6, of the City Charter to fix, establish, maintain and provide for the collection of such rates, fees or charges for utility services furnished by the City as will produce revenues sufficient to pay the costs, expenses and other obligations of the electric utility, as set forth therein; and

WHEREAS, Chapter 26 of the City Code regulates and governs the provision of utility services; and

WHEREAS, Chapter 26, Article XII, of the City Code sets forth the procedures and conditions for billing and collection of fees and charges for utility services, including resolution of delinquent balances and service disconnection, and terms for assessing and collecting fees and charges due for delivery of specified utility services; and

WHEREAS, such provisions require updating and modification from time to time, for purposes of clarification, correction of errors and to ensure the Code remains a dynamic document capable of responding to issues identified by staff, customers, and public assistance agencies, and changes in technology for delivering utility services; and

WHEREAS, Fort Collins Utilities staff has identified provisions of Chapter 26 of the City Code where clarification of procedures and conditions for billing and collection are required to better inform customers and align with current utility practices coinciding with delivery of utility services to qualified customers on whose behalf the City receives Colorado Low-Income Energy Assistance Program (LEAP) and other restricted utility program assistance funds; and

WHEREAS, on August 13, 2020, the Energy Board reviewed and provided feedback to staff regarding the proposed City Code revisions clarifying billing and collection practices; and

WHEREAS, on August 20, 2020, the Water Board reviewed and provided feedback to staff regarding the proposed City Code revisions clarifying billing and collection practices; and

WHEREAS, the City Council has determined it is desirable to maintain appropriate utility service billing and collection practices, and that clarification of such practices in the City Code, as set forth herein, is in furtherance of the benefits provided by the City to its utility ratepayers.

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

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.
Section 2. That Subsection 26-711(a) of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 26-711. - Definitions; application.

(a) The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in § 26-1 and this Section:

Financial Officer shall mean the head of the Financial Administration Unit or the designated representative of the Financial Officer.

Program assistance funds shall mean monies received through local, state, or federal grants, credits, reimbursements, or other programs that provide financial support for qualified public utility customers served by the City.

Section 3. That Subsection 26-712(a) of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 26-712. - Utility bill and account charges authorized; procedures.

(a) The fees and charges established by this Code for services from the electric, stormwater, water and wastewater utilities may be billed together in one (1) utility bill with such fees and charges separately itemized and shall be billed to utility users not less than once each month. Service fees and charges for telecommunication facilities and services may be billed separately or included on a combined utility bill with other utility services, and such amounts shall be itemized separately and be payable in addition to all combined utility fees and charges. The Financial Officer shall collect, receive and disburse all such fees and charges for the separate utility funds in accordance with the Charter and related provisions of this Code. Other than when applying program assistance funds restricted to specific utility products or services delivered to qualified customers, customer utility payments shall be applied uniformly to all combined non-telecommunication utility service fees and charges due.

Section 4. That Subsections 26-713 (c) and (e) of the Code of the City of Fort Collins are hereby amended to read as follows:

Sec. 26-713. - Due date; delinquency.

(c) In case the user of any non-telecommunication services utility fails to pay a utility bill by the due date or fails to pay any other utility fee, charge, deposit or assessment prescribed by this Code, the City may disconnect either or both of the user's water and electric services to the
property and has the right to enter upon private property to accomplish this purpose. Such disconnections shall nevertheless be conditioned upon the terms associated with program assistance funds received by the City on behalf of qualified customers.

... 

(e) Unless otherwise required by terms associated with program assistance funds received by the City on behalf of qualified customers, the terminated utility service will be restored after the customer or subscriber has paid in full all delinquent fees and charges, plus collection costs, together with the expenses of discontinuing and restoring service, including costs of after-hours labor and materials and specified fees, as provided in this Article.

... 

Introduced, considered favorably on first reading, and ordered published this 1st day of September, A.D. 2020, and to be presented for final passage on the 15th day of September, A.D. 2020.

__________________________________
Mayor

ATTEST:

_______________________________
City Clerk

Passed and adopted on final reading on the 15th day of September, A.D. 2020.

__________________________________
Mayor

ATTEST:

_______________________________
City Clerk
AGENDA ITEM SUMMARY
City Council
September 1, 2020

STAFF
Delynn Coldiron, City Clerk
Rita Knoll, Chief Deputy City Clerk
Ryan Malarky, Legal

SUBJECT
First Reading of Ordinance No. 109, 2020, Amending the Code of the City of Fort Collins to Modify and Update Requirements and Procedures for City Elections and Campaign Finance in City Elections.

EXECUTIVE SUMMARY
The purpose of this item is to consider proposed amendments to the City’s election campaign Code provisions.

STAFF RECOMMENDATION
Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION
In 2015, Council formed an ad hoc committee to review, discuss and recommend changes to the City Code and Charter regarding elections and other related matters. In 2017, Council made the ad hoc committee a standing committee of the Council (the Election Code Committee or ECC) for the purpose of identifying and evaluating ideas for improvements to City election laws and practices and anticipating adjustments that may be needed to adapt to a rapidly changing legal and technological environment. Mayor Troxell and Councilmembers Pignataro and Summers are the current members of the ECC. Councilmember Pignataro serves as the Chair.

At the August 25, 2020 Work Session, Council reviewed recommended changes to Chapter 7 of the Code of the City of Fort Collins related to campaigns and campaign finance in City elections from the Election Code Committee. The items contained in this Ordinance represent all items the Election Code Committee reached consensus on, as well as one clean-up item requested by staff. A Work Session summary is attached. (Attachment 1).

A summary of the proposed amendments follows:

Financial Disclosure Filing Date for Councilmembers (Section 2-636):
Staff is recommending that a change occur to Section 2-636 to align filing requirements for seated Councilmembers and newly elected Councilmembers so that the filing deadline falls on the same date (May 15 each year). Currently, newly elected Councilmembers must file no later than 30 days after their election. In an election year, half the Council is filing in early May, and the other half is filing mid-May. This proposed amendment will cause all Councilmembers to file under the same deadline.

The City Manager and City Attorney are required to file a financial disclosure statement no later than 30 days after his or her appointment, and then annually no later than May 15. No change is recommended to provisions affecting the City Manager and City Attorney.
This item was not discussed by the Election Code Committee.

Campaign Contributions/Expenditures (Section 7-135):

Adding Section 7-135(f) clarifies that no issue committee, small-scale issue committee or political committee shall make a contribution or contribution in kind to any candidate committee.

Elimination of Non-Itemized Contributions (Section 7-136):

Currently all candidate committees, political committees and issue committees must report all contributions and contributions in kind received in the amount of $20 or more. Members of the public attending ECC meetings expressed concerns about a lack of transparency resulting from not requiring the same disclosure for contributions and contributions in kind that are less than $20. One example provided was the use of a jar or “fishbowl” at election events where contributions are accepted without any documentation regarding the amount of individual contributions. Such fishbowls or other undocumented small contributions are problematic since there is no way to ensure a contributor is not exceeding contribution limits. This proposal eliminates anonymous donations and requires that all donations, no matter the amount, be reported.

Use of Unexpended City Campaign Funds in Non-City Elections and Carry-Over of Candidate Committee Contributions to the Next Election Cycle (Section 7-138):

Amending Section 7-138(a)(2) will enable unexpended campaign contributions to a candidate committee to be contributed to a candidate committee established by the same candidate for a subsequent campaign in a federal, state, county or city election, subject to campaign finance laws applicable to federal, state and county elections. Currently, the Code allows that unexpended contributions can only be used for a subsequent city campaign. In order to avoid any effect on current Councilmember committees, the change applies only to Council candidate committees formed after January 1, 2021.

Amending Section 7-138(e) will make unexpended campaign contributions held by a candidate committee after an election available for use in a subsequent election if the candidate registers a candidate committee for a City office in a subsequent election. Currently, candidate committees can contribute unexpended campaign contributions to a new candidate committee, with a new name, established by the same candidate for a subsequent election, but must close the current candidate committee no later than 10 days after establishing the new candidate committee. With this change, the candidate will need to re-register the candidate committee, but need not form a new committee or change the committee name. This change is intended to reduce the administrative burden on those candidates and their committees that intend to participate in a subsequent City election. The carryover funds will be the beginning fund balance for use in the subsequent election and will not count against any contribution limit attributable to any past contributor in a prior election campaign. If a candidate does not register a candidate committee for a City office in a subsequent election, the unexpended campaign contributions may be used as otherwise set forth in Section 7-138.

Changes to the Campaign Finance Violation Process (Section 7-136, Section 7-143, Section 7-145, Section 7-146, Section 7-150):

This language amends several sections of the City Code to establish a civil infraction process, whereby a set civil penalty may be imposed against a candidate or committee for certain campaign finance violations.

Most violations would no longer be criminal misdemeanors, meaning there would no longer be a risk of imprisonment or loss of office. However, the following violations are proposed to remain criminal misdemeanors: (1) when a person violates disclosure requirements with the intent to fraudulently misrepresent contributions or expenditures; (2) when a person offers a candidate or candidate committee money or anything of value to withdraw, or a candidate offers to withdraw for money or anything of value; or (3) when a person commits a violation or violations after already being found liable for two violations, all in a single election cycle. In the latter case, the third and any subsequent violation would be a misdemeanor.
Alleged criminal violations would not be subject to the civil infraction process but would remain subject to review by the City Attorney’s Office for probable cause.

Under this new civil infraction process, the respondent will be notified of any complaint received. The City Attorney or their designee will review the complaint for legal sufficiency. If the City Attorney determines the complaint is sufficient, the alleged violator (the “respondent”) will be notified of the presumptive penalty and given the opportunity to pay the penalty or have seven (7) days to submit written evidence of correction of the violation or diligent efforts to correct the violation. If the respondent fails to act, or the City Attorney determines the respondent has not corrected the alleged violation and otherwise substantially complied with its legal obligations, the respondent will be given the choice to pay an associated penalty or to contest the complaint through a hearing before the Municipal Court following the City’s already-established procedures for civil infractions in Chapter 19, Article V of the City Code. It is expected that an assistant judge would be assigned to handle any such proceeding in the Municipal Court to avoid any actual conflicts of interest the Chief Judge may have or the appearance of such conflict of interest.

Just as with other civil infractions, if a penalty is imposed by the Municipal Court but goes unpaid, the City would have the authority to collect the penalty as a debt to the City. Candidates would be personally liable for penalties. Candidates would be allowed to use campaign contributions to pay penalties.

Specifically, the proposed changes would:

1. Amend Section 7-136(g) to make reports that are incomplete or inconsistent with Code requirements to be subject to the penalties and process outlined in Section 7-143.
2. Amend Section 7-143(a) to create a schedule of violations subject to civil penalties with an associated dollar amount.
3. Create a new Section 7-143(b) to clarify that a misdemeanor, subject to a fine or imprisonment in accordance with Section 1-15 would continue for the following:
   a) A person or committee that violates disclosure requirements with the intent to fraudulently misrepresent contributions or expenditures; or
   b) A person who offers a candidate or candidate committee money or anything of value to withdraw, or a candidate who offers to withdraw for money or anything of value; or
   c) When a person is found liable for a violation after the person is found liable for two (2) or more violations under Chapter 7, Article V in a single election cycle.
4. Amend Section 7-143(c) to clarify that failure to comply with the provisions of this Article will have no effect on the validity of any election, except as expressly required by the City Charter.
5. Amend Section 7-145(c) to make it clear that the City Clerk will forward any complaints received that allege a criminal violation to the respondent as well as the City Attorney.
6. Create a new Section 7-145(d) related to processing complaints that do not allege a criminal violation and sets out the civil infraction process that will be utilized.
7. Amend Section 7-146 to clarify that the City Attorney will continue to review those complaints that concern criminal violations as opposed to civil infractions.
8. Eliminate Section 7-150 which currently allows a citizen complainant to bring a civil action in state district court after either receiving written notification from the City Clerk that the City Attorney determined filing a summons and complaint is inappropriate, or after one hundred eighty (180) days of filing the complaint, whichever occurs first. Staff is proposing this be removed due to recent case law calling into question the constitutionality of similar citizen enforcement mechanisms at the state election level.

The City Attorney will need to use an outside attorney, as in past practice, when a complaint is against a Council candidate. The Chief Judge will also likely need to use an assistant judge. The need to use an outside attorney for initial review and a special judge may have some budget implications that have not yet been addressed. The assistant judge would likely be an outside judge under contract for assistant judge services, as with other assistant judges in the Municipal Court. The assistant judge contract would be
managed by the Chief Judge and the Municipal Court, while the outside legal counsel for initial review of complaints, as needed, would be retained by the City Attorney’s Office.

The ECC discussed two additional issues and encouraged staff to bring them forward to the entire Council for discussion. These items include regulation of Limited Liability Company (LLC) contributions and limiting contributions to political committees.

Regulation of Limited Liability Company contributions and placing a limitation on contributions to Political Committees are moving forward to Council under separate ordinance as requested at the April 25, 2020 Work Session.

**CITY FINANCIAL IMPACTS**

Any financial impacts as a result of these amendments will be negligible.

**PUBLIC OUTREACH**

Meetings of the Election Code Committee are posted on the City’s website in advance of the meeting. Several members of the community regularly attend Committee meetings and provide input on topics on the agenda and other items of interest. Draft minutes from these meetings are attached. (Attachment 2).

**ATTACHMENTS**

1. Work Session Summary (PDF)
2. Election Code Committee Minutes (PDF)
MEMORANDUM

DATE: August 27, 2020

TO: Mayor Troxell and City Councilmembers

THRU: Darin Atteberry, City Manager
Kelly DiMartino, Deputy City Manager

FROM: Delynn Coldiron, City Clerk

RE: 08-25-2020 Work Session Summary: Possible Election Code Amendments

Councilmembers Present: Mayor Troxell, Mayor Pro Tem Stephens, Councilmembers Cunniff, Pignataro, Gorgol, Gutowsky and Summers.

Overview:

Staff presented recommendations from the Election Code Committee (ECC) on proposed election-related Code amendments, including:

1. Elimination of non-itemized contributions
2. Use of unexpected city campaign funds in non-city elections
3. Carry-over of Candidate Committee contributions to the next election cycle
4. Changes to the campaign finance violation process

Staff also presented information about two issues that had been discussed by the ECC for which no recommendation had been made:

5. Regulation of Limited Liability Company contributions
6. Limitation of contributions to Political Committees

Staff also presented one “clean up” change that had not been considered by the ECC:

7. Financial Disclosure statement filing

Council Discussion:

Most Councilmembers expressed full agreement with all items that the ECC had reached consensus on. Those items will move forward as part of the Consent Agenda at the next regular meeting. Councilmembers asked for an additional opportunity to discuss regulation of Limited Liability Company contributions and placing limitations on contributions to Political Committees. They requested that these items move forward under a separate ordinance and be placed on the Discussion Agenda as soon as possible. Council was appreciative of the work that had been done by the ECC and staff related to these items. They particularly liked the new civil penalty process that allows for less severe consequences for most campaign violations.
Follow Up:

Staff plans to bring both ordinances to Council at their September 1, 2020 regular meeting. Discussion on potential Charter changes are planned for the December 8, 2020 Work Session.
September 6, 2019

ELECTION CODE COMMITTEE MEETING

3:30 PM

COUNCILMEMBERS PRESENT: Troxell, Pignataro, Summers (via telephone),
STAFF PRESENT: Ryan Malarkey, Delynn Coldiron, Rita Knoll, Sara Gonzales
CITIZENS PRESENT: Marge Norskog, Jody Deschenes, Robbie Moreland, Roxanne Griffin, Dale Karchin, Suzanne Trask, David Turk, Kathryn Secor, Mike Feldhousen, Karen Wagner, Jen Rossi

1. CALL MEETING TO ORDER

Mayor Troxell called the meeting to order.

2. ELECTION OF COMMITTEE CHAIR

Councilmember Pignataro expressed interest in being the Committee Chair. Mayor Troxell and Councilmember Summers accepted the nomination.

3. CITIZEN COMMENT

Marge Norskog discussed the role of the City Clerk's Office in elections-to cover the election process and two election management tasks: to answer questions when asked and to take action if a report is not filed on time. She noted the Office was denied additional funding in 2019 to expand election management. She discussed the 18 complaints she and others filed in the April 2019 election, all of which were based on observations. Moving forward, Ms. Norskog stated small scale issue committees should be required to report the zero to $199 spent once they reach the $200 threshold that requires reporting. Independent expenditures under $250 are currently exempt from “paid for by” requirements, which causes a loophole in anonymous speech. Additionally, someone convicted of a felony who has since had their voting rights restored should be able to run for Council and suggested the election software be able to accommodate online reporting by campaigns and committees and support ranked choice voting.

Robbie Moreland stated it is important that consistent oversight is given to ensure election code is being followed. She reviewed financial disclosures for the past three April elections and requested the Committee consider addressing non-itemized contributions or donations under $20 to clarify their proper use and purpose. She requested the Committee address campaign donations from LLCs. She would like the City’s Election Code to match that of the state in order to ensure that individuals no longer have an advantage over others through the use of multiple LLCs.

Karen Wagner expressed concern about low voter turnout and questioned why the Committee has gone so long without meeting. She requested the Committee have a regular monthly meeting.

Jan Rossi expressed concern there is no campaign compliance oversight.

Roxanne Griffin stated the citizens of Fort Collins have the right to know who is paying for political advertisements, including independent expenditures. Transparency plays a key role in a voter’s ability to evaluate the merits of political campaign messaging. She requested the Committee consider future steps needed to ensure transparency and compliance with Election Codes.

Jody Deschenes requested the Committee address guidelines for election office employment or ineligibility thereof. She would like to help elevate the City’s election process and stated there should be a higher standard of transparency. She discussed her group’s three areas of focus: independent, fair, and transparent redistricting, ranked choice voting, and taking any and all measures necessary to mitigate the negative influence of money on campaigns, elections, and government. She will be submitting three resolutions related to these issues.

Councilmember Summers thanked the citizens who spoke and stated requiring “paid for by” statements on web pages and social media is a way to catch people doing misdeeds. He suggested the focus needs to be on other issues. He stated Fort Collins’ $75 maximum contribution limit may be lowest of any city in
Colorado; therefore, transparency concerns should focus more on flyers and robocalls. He would support on-line reporting but opposed ranked choice voting.

Mayor Troxell thanked the speakers and stated that, while transparency is important, he believes the complaint-based system has worked and he would be concerned about implementing changes that would dissuade candidates from participating.

Councilmember Pignataro asked if it would be appropriate for the Committee to make a decision on LLCs as all three of their names appear on the list of candidates with LLC donations. Chief Deputy City Clerk Knoll noted the Committee would be making a recommendation to Council with Council being the body that would ultimately make any changes to the Election Code.

Councilmember Pignataro asked about the scheduling of the Committee meetings. City Clerk Coldiron replied the meetings have been set for every other month for the rest of the year; however, that can be adjusted as necessary.

4. APPROVAL OF AUGUST 2, 2018 COMMITTEE MEETING MINUTES

Mayor Troxell made a motion, seconded by Councilmember Summers, to adopt the August 2, 2018 Committee meeting minutes. The motion was adopted by unanimous consent.

5. DISCUSSION ITEMS

a. Review of the scope of the Election Code Committee and past accomplishments

Assistant City Attorney Ryan Malarkey discussed the history of the Election Code Committee and various Election Code changes made by Council, after recommendation by the Committee.

Councilmember Pignataro asked how far prior to an election any Election Code changes need to be put into place. Chief Deputy City Clerk Knoll replied they would ideally be in place by September.

Mayor Troxell requested feedback on changes that were made prior to the April 2019 election. Chief Deputy City Clerk Knoll replied the additional required campaign finance reports placed a stress on the workload, as did the large number of candidates. She also noted there were additional ballot processing requirements that needed to be implemented, including signature verification and a new tabulation system.

City Clerk Coldiron commented on the relationship with the County which provides County workers in the City Clerk’s Office to help with registrations and other issues. The County is also considering letting the City use its ballot box.

Chief Deputy City Clerk Knoll stated the marketing campaign appeared to have been successful in getting people to check registrations early which decreased the walk-in traffic. She discussed the changes made relating to UOCAVA voters and to extending the time for signature discrepancies to be cured.

Mayor Troxell commended the election and its transparency given the number of new processes. He stated he would be slow to act in making additional changes citing the importance of predictability and stability.

Councilmember Summers stated he could find some interesting results that would come from ranked voting at a local level.

Councilmember Pignataro asked if there are clear guidelines about impartiality for election workers. Chief Deputy City Clerk Knoll replied that had not typically been an issue; however, a complaint was received from a candidate related to contact from Ms. Deschenes which is why she was not selected for election employment. She stated staff has determined a more complex application and vetting process will occur in the future.

City Clerk Coldiron stated staff will work with Human Resources and the City Attorney's Office to formalize the election worker hiring process.
b. Overview of April 2019 election

Chief Deputy City Clerk Knoll discussed turnout numbers, noting the number of registered voters is constantly changing. Receiving 32,000 ballots for a local election is a good turnout. She reviewed the election worker roles, overseas voter numbers, signature discrepancy corrections, new processes and equipment, campaign law changes, and election cost.

Councilmember Pignataro asked if it is a requirement that ballots first go to Denver for processing through the mail. Chief Deputy City Clerk Knoll replied in the affirmative but noted there is an agreement in place with the Fort Collins post offices to hold any ballots they get on Election Day.

c. Background on recent changes to Election Code

City Clerk Coldiron reviewed changes made to the Election Code prior to the April election. She also reviewed the complaints received during the election, stating two, relating to “paid for by” requirements on flyers, yard signs, campaign websites and a Facebook page, have been forwarded for additional investigation.

Councilmember Pignataro asked why other complaints related to a Facebook page have been dismissed while one remains. Assistant City Attorney Malarkey replied he could not make detailed comments as the investigation is ongoing.

Chief Deputy City Clerk Knoll noted Fort Collins, as a home-rule city, does not follow the majority of state laws regarding campaign finance.

Mayor Troxell opposed the severity of the penalty associated with “paid for by” violations and suggested the Committee consider alternatives. Councilmember Pignataro agreed and suggested the inclusion of additional language in candidate guidelines.

d. Review of proposed amendments to District-Precinct Map and possible recommendation to be included in September 17 Council Agenda Item

Chief Deputy City Clerk Knoll presented a draft agenda item for the September 17 Council meeting related to precinct changes made by the County. She noted the changes do not affect Council districts.

Mayor Troxell made a motion, seconded by Councilmember Summers, to recommend adoption of the amendment to the City precinct map based on the County's precinct changes. The motion was adopted unanimously.

e. Redistricting study overview

City Clerk Coldiron stated this communitywide redistricting effort was approved as part of the last budget cycle and noted the last redistricting was done in 2016. She stated redistricting must occur when there is a 10% or greater population variation between the most populous district and the least populous district, which in this case are Districts 1 and 4.

City Clerk Coldiron stated the redistricting study will result in an analysis of the current population-based methodology and ideas for others, evaluation of a possible district configuration, a robust public engagement effort, and multiple redistricting options. She noted the hired consultant will aid in the entire process and be present to answer questions. Staff would like to draft a request for proposal for the Committee to consider at its next meeting and begin work in February with Council consideration in November or December of next year.

Councilmember Pignataro asked how a consultant will be chosen. City Clerk Coldiron replied a staff committee will be formed to review the requests for proposal submissions and the Committee will be kept informed along the way.

Councilmember Summers suggested a November review by Council in order to provide additional time for potential candidates who may run in the April election. City Clerk Coldiron noted the new district boundaries will not go into effect until 2023 as census data will not be reported until 2021.
6. FUTURE TOPICS

What topics does the committee wish to explore as part of its work plan?

Councilmember Pignataro asked if Committee members could send suggestions to staff for compilation prior to the next meeting.

7. OTHER BUSINESS

None.

8. ADJOURNMENT

The meeting adjourned by unanimous consent at 5:00 PM.
November 15, 2019

ELECTION CODE COMMITTEE MEETING

3:45 PM

COUNCILMEMBERS PRESENT: Troxell, Pignataro, Summers
STAFF PRESENT: Carrie Daggett, Ryan Malarkey, Delynn Coldiron, Rita Knoll, Sara Gonzales
CITIZENS PRESENT: Marge Norskog, Robbie Moreland, Kathleen Schmidt, Kevin Jones

1. CALL MEETING TO ORDER

Mayor Troxell called the meeting to order.

2. CITIZEN COMMENT

Marge Norskog stated this committee provides a great deal of experience to determine how best to provide oversight for elections going forward. She discussed a new Colorado law: the Campaign Finance Enforcement Code. She stated the Secretary of State is actively creating a campaign enforcement group within its office and encouraged the City to examine a similar process.

3. APPROVAL OF SEPTEMBER 6, 2019 COMMITTEE MEETING MINUTES

Councilmember Summers made a motion, seconded by Mayor Troxell, to adopt the September 6, 2019 Committee meeting minutes. The motion was adopted by unanimous consent.

4. DISCUSSION ITEMS

a. “Fishbowl” donations - Require greater detailed reporting or not allow this type of campaign contribution?

Chair Pignataro stated these types of donations added up to over $500 in the last election. City Attorney Daggett noted it is challenging to have anonymous donations where you have individual contribution limits; therefore, it may be necessary to have some type of tracking for these donations.

Councilmember Summers stated people try to find ways around the rules and money is pushed out of the control of the candidate when more rules are in place. Campaigns should track individual donations regardless of the amount so it can be reported when the threshold is met. Candidates want to know who is contributing to their campaigns and suggested not allowing “fishbowl” donations may be the appropriate solution.

Mayor Troxell stated this type of donation does not seem to function with the maximum donation amounts.

Chair Pignataro asked about the language around anonymous donations. Chief Deputy City Clerk Knoll stated any donation under $20 is non-itemized and not reported. A solution would be to not allow non-itemized contributions.

Mayor Troxell supported that solution and asked what constitutes a Charter change with regards to elections. City Attorney Daggett replied there is a Charter provision that prohibits employee contributions to Council candidate campaigns and prohibits contributions from organizations contracting with the City. She also stated ranked voting would also be a Charter amendment and the remainder of the items on this agenda would be Code changes.

City Attorney Daggett noted there has been some discussion about the Charter provision related to not being able to hold office if convicted of a Code violation during an election. She noted Code changes would likely be able to address the concerns about the Charter provision and she reviewed items that could be viewed as criminal versus civil infractions in the election-related Code language.

Chair Pignataro stated eliminating anonymous donations would solve the “fishbowl” contribution issue.
b. Review of the complaint and enforcement procedures and penalties for election code violations.

Chair Pignataro stated the review of the complaint and enforcement procedures and penalties for election code violations would be a much longer effort.

Councilmember Summers stated the significant changes that were made after the 2017 election that applied to the 2019 election should be reviewed. He opposed the “paid for by” requirement for yard signs and stated some of the changes may have been overcorrections. Most of the 2019 election complaints were frivolous, bogus, and inconsequential.

Chair Pignataro stated the “paid for by” requirement began because of mailers that were funded by outside money. She agreed with Councilmember Summers that some of the changes may be overreaching.

Councilmember Summers opposed the requirement for two signatures on joint checking account checks. He stated several of the City’s requirements do not even apply at the state level. He expressed concern that taking the control of the campaign out of the candidates’ hands diverts it to outside groups.

Mayor Troxell supported adopting a minimalist, candidate-focused, transparent process. He supported doing away with anonymous donations.

Councilmember Summers stated there should be a right to cure things that are deficient in election reporting, such as missing addresses. Knoll replied the Clerk’s Office does not review reports at that level of detail; however, if it is brought to the attention of the Clerk, the candidate is told and is able to file an amended report.

Chair Pignataro asked if the priority of this item is changed by Council as a whole bringing it up under Other Business. Knoll replied Council will consider a draft ordinance and recommendation from this committee.

Councilmember Summers stated anything short of misappropriation of funds should not be viewed as a criminal activity.

City Attorney Daggett suggested staff return with options and recommendations.

c. Ranked Choice Voting – pros and cons for our community.

Chair Pignataro noted ranked voting could not be in place by the next election; therefore, while it is still important to discuss, it is not necessarily a priority at this time. She stated ranked voting could even the playing field a bit.

Councilmember Summers discussed his experience with ranked voting and stated he essentially supports the “one vote, one person” philosophy. He noted there could be a large confusion factor for voters and stated ranked voting may not add a great deal of value to city elections.

Mayor Troxell stated there is no existing problem that would be fixed by ranked voting. He noted some areas that have implemented ranked voting have now done away with it.

d. Restrictions on employees and contractors from participating in City elections.

City Attorney Daggett stated staff will likely want to provide more detail on this topic as the discussion progresses. She stated the employee issue is separate from the contractor issue and stated staff is recommending Council consider asking voters to remove the restrictions on contracting organizations in light of Citizens United as there is some question as to whether the prohibition is consistent with how the law has developed. She noted that would be a Charter provision change and stated the committee may need an executive session to fully discuss legal ramifications.

City Attorney Daggett noted the employee contribution prohibition only applies to candidate elections, but employees can participate in issue elections on a personal level.
Chair Pignataro noted the City is one of the largest employers in Fort Collins and stated not allowing employees to participate is difficult for candidates.

City Attorney Daggett noted City Manager Atteberry may want to be involved in this discussion related to concerns about relationships employees may have developed with candidates to whom they have contributed.

e. Campaign naming and carry-over for returning candidates.

Chair Pignataro noted this item relates to using a different campaign name for each election. She expressed concern that this could be wasteful in terms of campaign materials.

Councilmember Summers stated campaigns are active until they are closed at the state level.

Chair Pignataro asked what issues are being faced by the City Clerk's Office that would drive the need for different campaign names. Deputy City Clerk Gonzales replied donations are tied to committee names and it is difficult to determine which campaign is associated with which donations if the campaign name remains the same. She noted funds can be carried over from one committee to the other; however, the itemized items do not carry over.

Councilmember Summers suggested utilizing dates to differentiate campaigns.

Mayor Troxell noted issue committees and candidate committees may need to be treated differently. Gonzales replied issue committees are required to terminate and candidate committees must be reopened for each election, though they can remain open with an annual reporting requirement.

f. Possible alignment with state law regarding LLC election contributions.

Councilmember Summers stated the state law requires a report, which is only held by the candidate, outlining contributions made by an individual and their LLC.

City Attorney Daggett stated it could become cumbersome to attempt to attribute a donation equally among all members of an LLC.

Chair Pignataro stated City elections have a low per person donation limit for a reason and allowing LLC contributions seems to go against that.

Councilmember Summers stated higher contribution limits may be needed in order to avoid LLC contributions.

Chair Pignataro stated she would like to have staff prepare information related to pros and cons of the state regulations.

5. Continuation of Election Code Committee

City Attorney Daggett stated this item has come about as there may be enough interest on the part of the entire Council on some items that a work session may be a better way to proceed with a discussion.

City Clerk Coldiron stated there was also some thought that the amount of changes already made may need to be digested and assessed prior to making more changes.

Members discussed items that they would like to consider in January.

6. OTHER BUSINESS

Chair Pignataro encouraged the Clerk's Office to make scanned reports searchable PDFs.
7. ADJOURNMENT

The meeting adjourned by unanimous consent at 5:14 PM.
January 10, 2020

ELECTION CODE COMMITTEE MEETING

3:31 PM

COUNCILMEMBERS PRESENT: Troxell, Pignataro, Summers
STAFF PRESENT: Carrie Daggett, Ryan Malarkey, Delynn Coldiron, Rita Knoll, Sara Gonzales
CITIZENS PRESENT: Robbie Morel, Jody Deschenes, Anne Thompson, Sam Houghteling, Eric
Sutherland

1. CITIZEN COMMENT

Robbie Moreland stated Secretary of State regulations state that campaign contributions made as a member of an LLC counts toward contribution limits for that individual; however, City law allows an individual to make contributions under their own name as well as through their LLCs. She opposed the City provisions, as LLCs are not individuals and do not receive a ballot to vote. She requested the City develop a way to align contributions limits for LLCs with the state requirements. She expressed support for ranked choice voting, is interested in the continued discussion on non-itemized contributions under $20, and requested the Committee recommend doing away with anonymous donations altogether.

Jody Deschenes expressed support for the City adopting Colorado's rules regarding campaign contributions from individuals and LLCs. She also supported independent redistricting and requested an update on the timeline for hiring an independent redistricting consultant following the 2020 census. She supported eliminating anonymous or non-itemized contributions under $20 and supported ranked choice voting.

Chair Pignataro noted she had previously requested staff prepare pro and con information regarding possible alignment with state LLC contribution provisions and requested an update. Gonzales replied that topic will be discussed at the February meeting.

Mayor Troxell requested information regarding the LLC provisions related to a home rule municipality. City Attorney Daggett replied the City has its own set of campaign finance rules and would need to adopt something different to match the state provisions.

Councilmember Summers stated it is important not to pick and choose what the City models locally after the state guidelines. He asked if the intent is to make it more difficult to run for City Council than for the State House or State Senate.

Chair Pignataro replied she would like to look at pros and cons of changing the regulations.

Councilmember Summers stated he would like to look at the state model for donations from couples. He noted the Fort Collins model is more restrictive than state law for couples to donate to a candidate.

Mayor Troxell discussed the importance of identifying goals to be achieved prior to making changes.

Chair Pignataro noted ranked choice voting would require Council to vote to place the item on a ballot as it is a Charter change. Knoll noted the only option to have that in place for the next City election would be to place it on the November 2020 ballot.

Councilmember Summers stated it would be helpful to have an analysis of how many elections had more than 2 candidates when looking at ranked voting. Knoll replied she would provide a spreadsheet of the number of candidates in each race for each election and data on whether the winning candidate acquired more than 50% of the vote.

Mayor Troxell discussed the recent ethics complaint regarding Mayor Pro Tem Stephens and his participation in the Hughes Stadium site rezoning and stated it is false to claim issue committee donations are related to individual campaigns as was suggested as part of that complaint.
2. APPROVAL OF NOVEMBER 15, 2019 COMMITTEE MEETING MINUTES

Mayor Troxell made a motion, seconded by Councilmember Summers, to adopt the November 15, 2019 Committee meeting minutes. The motion was adopted by unanimous consent.

3. DISCUSSION ITEMS

a. Review past Election Code changes, grouped by themes - Discussion of which areas the Committee would like to see amended

Councilmember Summers stated the definition of a Candidate Committee was changed to specify the common purpose is to receive contributions or make expenditures rather than and make expenditures and asked why that change was made. City Attorney Daggett replied that change was made realizing candidate committees would not technically meet the definition of a candidate committee until it started spending money.

Councilmember Summers suggested some context may be missing related to the candidate committee language. Knoll replied both contributions and expenditures were required to meet the definition of a candidate committee when the language was first written; however, there could be a situation in which the candidate funds the committee totally by loaning the campaign money, which is not technically a contribution, but is a loan. This would mean expenditures could be made, but contributions were not received, and the proposed language would allow a candidate committee to either receive contributions or make expenditures, or both.

City Attorney Daggett stated the language could be revisited as necessary.

Councilmember Summers asked if an individual could run for Council and not have a candidate committee. City Attorney Daggett replied candidate committees are defined as "a person, including the candidate, or persons with a common purpose, of receiving contributions, making expenditures, under the authority of the candidate"; therefore, the definition is written to include the candidate as a person. She stated it is a requirement of the candidate to have a committee unless there is no money being contributed.

Councilmember Summers asked if there is a time limit for which candidates are required to retain copies of public communication, invoices, receipts, and other instruments of payment. Gonzales replied it is for a year unless a complaint has been filed, then items must be kept until after its resolution.

Councilmember Summers asked if it must be counted as a contribution if someone from an individual's campaign committee voluntarily sets up the candidate’s webpage. City Attorney Daggett replied certain items online are free, and other things are not; therefore, it would depend on whether the page was placed on a hosted site or one that could be freely used. She stated this section prohibits different rates being given to certain candidates over others.

Councilmember Summers stated there may have been some confusion prior to the requirement that independent expenditures must have a “paid for by” declaration. City Attorney Daggett replied most of the confusion was on the part of complaining parties, and it was made clear that new regulations such as this do require a fair amount of education. She stated there is opportunity to continue improving the education around the requirements.

Chair Pignataro asked if the Code language indicates “paid for by” statements are required when money or in-kind donations are exchanged. Assistant City Attorney Malarky noted a trigger for the use of “paid for by” is when a candidate or committee makes an expenditure. City Attorney Daggett stated the Code language includes examples of items that are understood to be impractical for a notice requirement.

Mayor Troxell asked if this section could include something about social media. City Attorney Daggett replied the language does say communication shall include, but is not limited to, websites or social media of a candidate committee, issue committee, or small-scale committee, if and to the extent they are financed by independent expenditures.

Chair Pignataro clarified the requirement would apply to ads purchased on Facebook, for example, but not to posts on personal pages.
City Clerk Coldiron noted there may be some confusion and question as to what is impractical for the “paid for by” requirement.

City Attorney Daggett mentioned the question as to whether materials from previous elections, such as yard signs, should be required to have the “paid for by” notation.

Councilmember Summers questioned why “paid for” declarations are required. Knoll replied this came from a request from citizens because there were very negative ballot materials against another candidate sent out in the April 2017 election that appeared to be from the candidate's campaign, and it was difficult to identify who had sent it.

Councilmember Summers stated that kind of issue should be the focus of what needs to be solved with a “paid for by” requirement.

Chair Pignataro stated she would like to see this requirement used through one more election cycle before making any amendments.

Mayor Troxell agreed.

b. Possible Election Code Changes-Review of draft Code Amendments

1. Elimination of anonymous donations

Malarky stated the direction staff received from the Committee was to eliminate all anonymous donations; therefore, the $20 threshold has been eliminated in the draft language so any donation amount would need to be tracked and recorded.

Mayor Troxell stated this requirement may make things simpler. City Attorney Daggett noted this requirement would eliminate the possibility that someone could make multiple small donations that would not be tracked under the previous regulations.

Chair Pignataro noted she would want to know who is supporting her as a candidate.

The Committee supported the proposed language on this issue.

2. Use of unexpected City election candidate contributions in a non-City election

Chair Pignataro stated she does not want this to appear as if it is being done for a specific candidate and asked if a similar provision exists at the state level.

Councilmember Summers replied funds can be rolled over among state campaigns. He noted new committees must be formed if the campaigns are for different offices on different levels.

Mayor Troxell noted unexpended campaign funds can now go to non-profits and other entities and suggested a campaign for another position should also qualify under that category.

Councilmember Summers asked if leftover campaign funds are considered the candidate's funds when being transferred from one year's campaign to another. City Attorney Daggett replied there would not be a limit on the transferred amount.

3. Carry-over of unexpended candidate contributions to the next election cycle and the ability of the committee to keep its same name

Malarky stated this item was intended to address a concern that was raised about having to develop a new committee name. The Election Code Committee provided direction that candidates be able to retain the same committee names. Knoll suggested committee names could be amended with the knowledge and documentation that the committee is the same.
4. **Addition of a cure period for respondents in the campaign violation process**

Malarky outlined the language for this proposed change.

Mayor Troxell asked about the repercussions for campaign violations that are not corrected. Malarky replied there would then be a determination made either by the City Attorney’s Office or outside counsel regarding whether further investigation or prosecution is warranted.

5. **Removal of the citizen enforcement mechanism in District Court**

City Attorney Daggett stated the current Code allows the complaining party to file a case in District Court should the City's prosecutor chose not to pursue prosecution of a violation. Staff recommends removing this ability from the Code based on questions of constitutionality in recent court cases. She outlined a complaint received regarding an election which was ultimately reviewed and determined to not merit further investigation. She stated the citizen was frustrated with the time it took to investigate the complaint.

Chair Pignataro asked what options would be available for a citizen. City Attorney Daggett replied the initial logic of the campaign finance disclosure requirements was that the political process is political and whatever information people have about what may have happened would feed into the political process and be usable for people who wanted to advocate for or against individual candidates, or seek recall of individual candidates.

4. **OTHER BUSINESS**

Chair Pignataro asked when the civil versus criminal penalty option will come before the Committee. City Attorney Daggett stated any violation is currently a criminal misdemeanor and there are some types of violations that staff would recommend continue to be so. She stated it is clear there is interest in backing off consequences and intensity of enforcement for items like filing violations. She stated those issues would shift from a criminal violation to a civil infraction or other administrative violation.

City Attorney Daggett stated staff will need to work on developing a recommendation for what the process may look like. She noted civil infractions are punishable by fines and stated a fine schedule could be outlined.

Councilmember Summers stated it is important to delineate between oversights and mistakes versus true law violations such as fraud, which is already illegal. He stated creating disproportionate penalties will discourage people from serving in public office.

City Clerk Coldiron and City Attorney Daggett outlined the process by which complaints are addressed through the two offices.

Chair Pignataro asked if the City is planning to place any items on the November 2020 ballot. City Clerk Coldiron replied in the negative. Mayor Troxell discussed how items may emerge to be placed on the ballot.

Chair Pignataro asked about cost of adding an item to a presidential election ballot. City Clerk Coldiron replied it would be quite expensive and noted all local items are placed near the end of the ballot.

5. **ADJOURNMENT**

The meeting adjourned by unanimous consent at 5:22 PM.
February 21, 2020

ELECTION CODE COMMITTEE MEETING

3:32 PM

COUNCILMEMBERS PRESENT: Troxell, Pignataro, Summers
STAFF PRESENT: Carrie Daggett, Ryan Malarky, Delynn Coldiron, Rita Knoll, Sara Gonzales
CITIZENS PRESENT: Robbie Moreland, Michael Pruznick, Michelle Haefele, Jody Deschenes, Psyche Spangler, Roxanne Griffin, Lori Brunswig, Kathleen Schmidt, Dick Thomas, Adolfine Thomas, Anne Thompson, Karen Wagner

1. CALL MEETING TO ORDER

Chair Pignataro called the meeting to order.

2. CITIZEN COMMENT

Robbie Moreland suggested new election laws should strive to meet the intent of the legislative declaration in Chapter 7 of the Municipal Code. LLC contributions should be limited, and City law should match state law to avoid the appearance of corruption. She also supported matching state law relative to the formation of independent expenditure committees and stated the formation of an independent expenditure committee should be required when donations in excess of $250 have been received, or an expenditure in excess of $250 has occurred, and donor disclosures should be required for donations of $100 or more.

Jody Deschenes stated the City's high standards should include the highest level of transparency for voters. She requested that contributions from individual voters be limited to $75 or $100 in total, regardless of how many LLCs are owned by that individual. She also requested candidate committees be terminated in full at the end of each election, including liquidating all unused campaign funds, and requested that all committee and independent expenditure reporting forms be updated to digital versus PDFs to make filing, storage, and review easier. Ms. Deschenes also requested an update regarding the vetting and hiring of an independent redistricting consultant and supported the use of ranked choice voting. Additionally, she requested an update on guidelines for employment as an election judge.

Kathleen Schmidt, League of Women Voters of Larimer County, requested the City change its law to match the state law relative to campaign contribution limits from LLCs.

Michael Pruznick discussed his energy-neutral home and stated there is a large loophole in the LLC issue. He discussed the "paid for by" requirement and penalties for campaign violations. He mentioned legalizing vote buying.

Anne Thompson, League of Women Voters of Larimer County, stated the League was recently approached by members of Represent Fort Collins regarding changes that should be made regarding contribution limits from LLCs. Fort Collins should change its laws to match those of the state.

Michelle Haefele supported aligning Fort Collins regulations with those of the state regarding LLC contributions, and supported ranked choice voting.

Roxanne Griffin supported aligning Fort Collins regulations with those of the state regarding LLC contributions.

Karen Wagner opposed the outside influence of money on politics and supported aligning Fort Collins regulations with those of the state regarding LLC contributions.

Richard Thomas supported aligning Fort Collins regulations with those of the state regarding LLC contributions and stated any Councilmembers who have accepted a contribution from an LLC should recuse themselves from votes related to developments.

Councilmember Summers noted not all LLCs are related to developers and that Fort Collins has the lowest contribution limits of any municipality in the state. Election codes should provide the candidate the greatest
control over his or her election if there is a concern about who is influencing elections. He also noted state guidelines allow $400 contributions per individual and stated local City Councilmembers are not professional politicians. He spoke in favor of keeping money directed to candidates for their use.

Chair Pignataro asked about changing the campaign finance report forms from PDFs. Knoll replied they are fillable PDFs but they are scanned and posted online so as to ensure the Clerk's Office date stamp is reflected. She suggested there could be another way to address that in the future.

Regarding ranked choice voting, Councilmember Summers commented on the low number of races over the last several elections that had candidates receiving less than 50% of the vote.

Mayor Troxell commented on ranked voting not appearing to be necessary based on prior elections.

Councilmember Summers stated he would like to get some information from other Colorado municipalities who use ranked choice voting.

Councilmember Pignataro asked about redistricting. City Clerk Coldiron stated census data will not be available until the first quarter of 2021 and redistricting would be based on that.

3. APPROVAL OF JANUARY 10, 2020 COMMITTEE MEETING MINUTES

Mayor Troxell made a motion, seconded by Councilmember Summers, to adopt the January 10, 2020 Committee meeting minutes. The motion was adopted by unanimous consent.

4. DISCUSSION ITEMS

   a. Civil versus criminal penalty options for election code violations

City Attorney Daggett stated the City has a history of limited enforcement action around campaign finance issues and the Committee has discussed evaluating potentially changing violations from all violations being a criminal misdemeanor to making some less egregious complaints civil infractions or administrative violations.

Councilmember Pignataro mentioned the Committee decided at its previous meeting to leave the existing “paid for by” requirements in place as they were just implemented in the previous code change cycle.

City Attorney Daggett stated the next meeting agenda is planned to include possible Charter amendments related to elections.

Malarky presented information related to a possible new enforcement system. He noted the existing process is complaint-based and complaints go through a review process by the City Attorney for probable cause, and if probably cause is found, there would be further investigation and prosecution if deemed appropriate. All violations of campaign finance requirements are currently criminal misdemeanors. This proposed system makes most violations of the campaign finance requirements subject to civil penalties. Malarky outlined the items that would remain criminal offenses under this system. The current proposal would disallow campaign contributions from being used to pay administrative penalties.

Councilmember Summers disagreed with that recommendation.

Knoll discussed the reasoning for the draft language, stating donors provide contributions to aid in getting an individual elected.

Councilmember Pignataro stated she could see both sides of the issue relating to whether or not campaign contributions should be able to be used for fines.

Committee members and staff discussed the number of violations that would need to occur prior to a violation becoming criminal.
Councilmember Summers suggested the process related to joint account contributions would benefit from being aligned with the state regulations.

Mayor Troxell commended the overall work of the City Attorney’s Office stating the changes align with the Committee discussions.

b. City regulation of LLC campaign contributions

Malarky stated this proposed language amends the campaign contributions and expenditures Code section related to contribution limits. The change mirrors state law and would require an LLC to submit a written statement to the candidate or candidate committee when it makes a contribution, providing the name and address of all the members of the LLC, information on how the contribution will be attributed to those individual members, and the contributions made by the LLC as they are attributed to the members. The contributions would then count toward the individual contribution limits of the members.

Mayor Troxell asked about the situation in relation to a C-corporation. Malarky replied this is strictly related to LLCs.

Mayor Troxell questioned the legal structure of an LLC and how it is considered beyond being a legal entity.

City Attorney Daggett stated she has not examined the rationale for looking at LLCs only as opposed to other types of business entities, though it is likely because an LLC is easier to form and there are fewer related consequences to forming an LLC than other types of business entities.

Councilmember Summers stated the rules as they are now are not discriminatory in terms of one candidate over another and suggested changing the regulations will allow LLCs to make the same contributions to an independent expenditure committee rather than to an individual candidate which takes control away from the candidate.

Knoll commented on nested LLCs which may need to be addressed in these provisions. City Attorney Daggett stated that could be addressed by requiring information if a member is not a natural person.

Mayor Troxell supported increasing the maximum donation amount for each individual if the LLC regulations are changed.

Councilmember Pignataro stated she would not support that.

Councilmember Summers stated it would be interesting to have data related to LLC contributions from the last election to ensure recommended changes are not reactionary.

Mayor Troxell stated he does not believe there is corruption involved in LLC contributions and questioned whether changes would improve the system. He questioned what problem is being solved.

Councilmember Pignataro stated the problem as she sees it is that LLC contributions take the power away from individual voters and place it with entities that have more money.

Mayor Troxell disagreed. Councilmember Summers noted individuals still cast ballots.

5. OTHER BUSINESS

Chair Pignataro suggested that joint account contributions be addressed at a later meeting.

6. ADJOURNMENT

The meeting adjourned by unanimous consent at 5:25 PM.
May 1, 2020

ELECTION CODE COMMITTEE MEETING

3:30 PM

COUNCILMEMBERS PRESENT: Troxell, Pignataro, Summers, Stephens (alternate)
STAFF PRESENT: Carrie Daggett, Ryan Malarkey, Delynn Coldiron, Rita Knoll, Sara Gonzales
CITIZENS PRESENT: Michelle Haefele, Jody Deschenes, Kathleen Schmidt, Robbie Moreland, Jan Rossi

(Secretary's Note: Due to the COVID-19 crisis and state and local orders to remain safer at home and not gather, all Councilmembers, staff, and public attended the meeting remotely, via teleconference.)

1. CALL MEETING TO ORDER

Chair Pignataro called the meeting to order and discussed the Zoom remote participation.

2. CITIZEN COMMENT

Kathleen Schmidt, Election Reform Team Chair for the League of Women Voters of Larimer County, supported the City matching the state law regarding campaign contributions from LLCs.

Robbie Moreland thanked Council for its work during this time and supported a requirement to wear face masks in public buildings. She expressed support for matching the state law regarding campaign contributions from LLCs.

Jan Rossi opposed the current LLC contribution regulations in Fort Collins. stating money buys influence. She supported aligning the City's regulations with the state law.

Michelle Haefele reiterated the City's legislative declaration for campaigns. Large campaign contributions create the potential for corruption and the appearance of corruption and the public interest is best served by limiting campaign contributions. She supported changing the City's election rules to align with those of the state to limit the total contribution of any individual.

Jody Deschenes commended staff and Council for carrying on with responsibilities under unique and challenging circumstances. She supported keeping campaign contribution limits as is, stating most grassroots candidates would not receive a benefit from increased limits.

3. CONSIDERATION AND APPROVAL OF FEBRUARY 21, 2020 COMMITTEE MEETING MINUTES

Mayor Troxell made a motion, seconded by Councilmember Summers, to adopt the February 21, 2020 Committee meeting minutes. The motion was adopted by unanimous consent.

4. DISCUSSION ITEMS

a. City Regulation of LLC Campaign Contributions

Chair Pignataro stated her impression is that this Committee will not likely come to a strict agreement regarding this item; therefore, she suggested no LLC changes be included in the package of changes sent to Council and, if desired, the entire Council could take up the issue.

Councilmember Summers agreed noting the current LLC regulations have been in place for decades. He took exception to statements of corruption without any type of proof.

Mayor Troxell agreed and stated the Committee should move on.

Chair Pignataro stated Mayor Troxell and Councilmember Summers are in favor of leaving the LLC regulations unchanged; however, she is a proponent of changing them. The Committee will send its package of changes forward to Council without changes in the LLC language at this time and the entire Council could take up the issue at that time.
b. Possible Charter Amendments Relating to Elections

i. Amend Article VIII, Section 9 Corrupt Practices

Assistant City Attorney Ryan Malarky stated this item concerns a section of the Charter that came to the attention of Council and the Committee after the last election cycle. Several citizen complaints were filed concerning alleged Election Code violations. Questions were raised as to the consequences or penalties if an allegation is sustained and someone is ultimately convicted of an Election Code violation.

Malarky outlined the existing penalties, including a ban on holding City office or employment for a certain number of years, which seem to be fairly significant and stated staff wanted to give the Committee an opportunity to discuss this section to see if there is any interest in making changes.

Clarifying the portion that addresses “at a city election” could be considered. Malarky questioned if this provision is intended to apply to election-related offenses that would have an impact on the outcome of an election or call into question the propriety of City elections. He also noted there is a difference between civil violations and criminal violations, the latter of which generally have stricter penalties. The Committee could consider this provision being triggered only by a criminal violation as opposed to something that would be strictly civil.

Mayor Troxell supported getting more information and involving more discussion, perhaps in the form of a work session.

City Attorney Daggett suggested it may be helpful for staff to develop some different versions for consideration at the next meeting.

Mayor Troxell and Chair Pignataro agreed with that suggestion.

City Attorney Daggett outlined what she has heard in the discussion including recognition that this section needs to be related to what would be considered significant offenses that relate to an election or campaign.

(Secretary’s note: Councilmember Summers left the meeting at this point and Mayor Pro Tem Stephens stepped in as Committee alternate)

ii. Amend Article VIII, Section 8 regarding participation in elections by political parties, city employees, public service corporations or any other person intending to apply for a franchise or have a contract with the City

City Attorney Daggett stated an executive session might be helpful to discuss legal issues. This item is on the agenda as there were some issues that came up during the last election related to some employee organizations and generally related to this section. The key part of the section staff is suggesting the Committee may want to consider is the limitation on contributions or expenditures of any money or valuable things, directly or indirectly, to assist in the election or defeat of a candidate by any of the following: a political party, a City employee, a public service corporation, and any person, firm, or corporation owning, interested in, or intending to apply for, any franchise or contract with the City.

Mayor Pro Tem Stephens made a motion, seconded by Mayor Troxell, that the Election Code Committee go into Executive Session for the purpose of meeting with the City's attorneys and City Clerk's Office staff to discuss the following matters as permitted under City Charter Article II, Section 11-2, City Code Section 2-31(a)(2), and Colorado Revised Statute Section 24-6-402(4)(b): the manner in which the particular policies, practices, or regulations of the City related to City elections may be affected by existing or proposed provisions of federal, state, or local law. Yeas: Pignataro, Troxell, and Stephens. Nays: none.

THE MOTION CARRIED.

(Secretary’s Note: The Committee went into Executive Session at this point in the meeting and returned at 5:15 pm.)
Chair Pignataro stated there is value in looking at this section more carefully at next month's meeting.

Mayor Troxell and Mayor Pro Tem Stephens concurred.

iii. Amend Article II, Section 4 to conform with Article II, Section 1(d) to reflect the selection of Mayor Pro Tem does not occur until recount period has expired

City Attorney Daggett stated this issue was created when the Charter was amended in 2017, but a provision was missed that needs to be modified, given the recount procedure and time needed to finalize the certification of the election. This would be a corrective edit to the Charter that would ensure the newly elected Council is selecting the Mayor Pro Tem. Staff has discussed an idea that sets a specific date for swearing in of the new Council and subsequent actions, such as selecting a Mayor Pro Tem, would tie into that date.

City Clerk Coldiron stated a having a date certain for swearing in of new Councilmembers seems to make sense as the Clerk’s Office received many questions after the last election and there was disagreement as to when to move forward with certain actions. This would build certainty into the process.

City Attorney Daggett noted the Charter states a Councilmember’s term continues until a successor is sworn in and having a date certain for the swearing in would provide more predictability.

Chief Deputy City Clerk Knoll stated a full course of a recount and election certification could be out as far as the second Tuesday in May. She also noted there have been issues wherein some Councilmembers are subject to a recount and others are not.

Chair Pignataro asked if the language could be changed to select the Mayor Pro Tem at the first regular meeting after the new Council is sworn in. City Attorney Daggett replied that could work if it was made clear that would occur after each seat is resolved and after the completion of any recount.

Chief Deputy City Clerk Knoll noted if no recount is requested, the opportunity to swear in Councilmembers would be sooner, which is one argument against setting a date certain for swearing in. However, setting a date certain would be more similar to county and state offices.

Chair Pignataro stated she would like to receive additional information from staff regarding preferences and ease of understanding for voters as this is a Charter amendment.

Chair Pignataro suggested staff return at the next meeting with information as to what would be affected by adding a date certain.

Mayor Troxell stated the entire Council should be seated prior to selecting a Mayor Pro Tem. He asked about the timeframe for a requested recount. Deputy City Clerk Gonzales replied a recount must be requested within five days after certification of the election, which is ten days after the election.

City Attorney Daggett suggested there could be two alternative set dates, one in the case of a recount, and one if there is no recount. Chief Deputy City Clerk Knoll recommended that those two options are likely the first meeting in May or the second meeting in May, or potentially a special meeting at the end of April.

Chair Pignataro suggested staff return with options at the next meeting.

Mayor Troxell suggested the swearing in does not necessarily need to occur on a Tuesday.

(Secretary's Note: Mayor Troxell left the meeting at this point.)
iv. Amend Article VIII, Section 4(a) to eliminate requirement that the affidavit of circulator contain a statement of the number of signers on that section of the petition

Chief Deputy City Clerk Knoll stated this provision was eliminated in one portion of the Charter, but staff recently discovered a hold over of similar language in another section. This change will clarify that language.

Mayor Pro Tem Stephens stated that language cleanup makes sense.

5. OTHER BUSINESS

Mayor Pro Tem Stephens stated there may be some desire from the rest of Council to bring forward the issue related to LLC campaign contributions and suggested staff may want to have language prepared.

City Attorney Daggett stated there may be benefit in having a Council work session to discuss some of these issues.

Chair Pignataro noted the importance of timing as Charter amendments would need to be on the April ballot.

6. ADJOURNMENT

The meeting adjourned by unanimous consent at 5:43 PM.
June 5, 2020

ELECTION CODE COMMITTEE MEETING

3:30 PM

COUNCILMEMBERS PRESENT: Troxell, Pignataro, Summers
STAFF PRESENT: Carrie Daggett, Ryan Malarky, Delynn Coldiron, Rita Knoll, Kelly DiMartino
CITIZENS PRESENT: Jody Deschenes, Robbie Moreland, Kathleen Schmidt, Kevin Jones, Jan Rossi, Michele Haefele

(Secretary’s Note: Due to the COVID-19 crisis and state and local orders to remain safer at home and not gather, all Councilmembers, staff, and citizens attended the meeting remotely, via teleconference.)

1. CALL MEETING TO ORDER

Chair Pignataro called the meeting to order and discussed the Zoom remote participation.

2. CITIZEN COMMENT

Robbie Moreland thanked the Committee for sending the recommendation to eliminate anonymous contributions to the entire Council. She stated there is no limit on donations from individuals to political committees in Fort Collins but at the state level, that limit is $625 per two-year election cycle. She requested the Committee address this campaign finance loophole as soon as possible. She requested confirmation on her assertions that the limits do not exist, and that political committees can coordinate with candidates.

Jody Deschenes stated there are currently no limits on donations from individuals to political committees and no prohibition of coordination between candidates and political committees. She requested contributions to political committees be limited to $100. She thanked the Committee for recommending to Council that anonymous donations be eliminated.

Kathleen Schmidt, League of Women Voters of Larimer County, thanked the Committee for its work. She expressed support for matching the state law regarding campaign contribution limits from LLCs.

Chair Pignataro asked if it is true there is no limit on contributions to political committees and that there is no prohibition of political committees coordinating with candidates. City Attorney Daggett replied the definitions of the different types of committees do not necessarily describe contribution limits; however, there is a Code provision that specifically states committees of all types shall not coordinate expenditures with any other such committee in a manner that circumvents any restrictions or limitations on campaign contributions, expenditures, or reporting. She stated there are no limits on expenditures of committees because the campaign finance system in the Code, with the exception of the limitations on contributions to candidates, is aimed at essentially bringing light to expenditures through disclosures. The reason for that is that First Amendment protections exist for political speech.

City Attorney Daggett clarified there is a limit on contributions to candidates, but not to political or issue committees. Staff is in the process of writing a memo addressing these topics.

Mayor Troxell noted self-funding of campaigns can occur as well and he discussed the importance of candidates wanting to control their own messaging.

3. CONSIDERATION AND APPROVAL OF MAY 1, 2020 COMMITTEE MEETING MINUTES

Mayor Troxell made a motion, seconded by Councilmember Summers, to adopt the May 1, 2020 Committee meeting minutes. The motion was adopted by unanimous consent.
4. **STAFF REPORT: Overview of Code changes previously approved by the Election Code Committee and proposed timeline of changes to City’s Election Code.**

Ryan Malarkey, City Attorney’s Office, outlined the previously approved Code changes which include the elimination of anonymous donations, addressing allowing candidates to use unexpended candidate committee contributions for a non-City election or a subsequent City election, and making the majority of campaign finance violations administrative penalties rather than criminal violations, among other items.

Chief Deputy City Clerk Knoll stated there is one more ECC meeting scheduled as proposed Charter amendments will need to go before the full Council by July or August to make the November ballot. The timeline for Charter amendments is different as they must be put on the ballot by ordinance, which requires two readings.

City Attorney Daggett noted staff has considered having a work session for the entire Council on July 14. Chair Pignataro supported adding these items for discussion.

5. **DISCUSSION ITEMS**

a. **Possible Charter Amendments**

i. **Consideration of possible amendment to City Charter Article VIII, Section 4(a) to eliminate the requirement that the affidavit of circulator contain a statement of the number of signers on that section of the petition.**

(No discussion needed; ECC previously supported bringing this forward to City Council.)

ii. **Consideration of possible amendment to City Charter Article II, Section 4 to conform with Article II, Section 1(d) to reflect the selection of Mayor Pro Tem does not occur until recount period has expired.**

Knoll stated the last round of amendments included a change related to when Council takes office, but no amendments were made to when the Mayor Pro Tem is selected, which has resulted in conflicting language. She outlined options for language clarification and provided pros and cons for various options.

Mayor Troxell asked how long the outgoing Council would sit. Knoll replied they always remain until the new members are sworn in.

Mayor Troxell suggested taking the two options to the work session perhaps with a preferred option from the Commission.

Councilmember Summers stated it would be beneficial to get feedback from the full Council on this item.

Committee members and staff discussed the timeline issues with both options. Chair Pignataro stated the option that provides more time could allow for onboarding to occur, which would be an advantage.

Councilmember Summers discussed the possibility of establishing a date for the oaths of office and selection of the Mayor Pro Tem with the caveat that those dates would change if a recount is requested. Knoll replied that is essentially option one; however, there is no way to predict when the date of swearing in will be until the deadline to request a recount has passed.

Mayor Troxell asked what would trigger a mandatory recount. Knoll replied it is a difference of less than one half of one percent; however, anyone can request a recount and fund it themselves.

Councilmember Summers stated he would favor option one. Mayor Troxell concurred and stated he would prefer the swearing in to be closer to the election.

Councilmember Summers asked if the November coordinated election is occurring only for these issues. City Clerk Coldiron replied these are the only City matters as of right now.
Councilmember Summers asked about the cost of a coordinated election. City Clerk Coldiron replied the cost is based on the number of registered voters, as well as the number of other jurisdictions that are participating. The exact cost is difficult to determine, but there will be additional costs because it is a presidential election. If the ballot becomes two pages, there is a significant additional cost. She estimated the cost to be at least $200,000.

Councilmember Summers questioned whether that cost would be worth it when the items could be rolled into the regular City election in April. City Attorney Daggett stated a ballot question could be written for the April election that would make the effective date of the changes immediate.

Chair Pignataro suggested the Committee continue the discussion at the full Council work session.

Chair Pignataro asked if there is a hierarchy to be considered for the coordinated election. Knoll replied there is a hierarchy for how questions are placed on the ballot, with municipalities following state and county items. When the City participated in the 2012 presidential election, the cost to the City was $292,000, which did not include a second page.

iii. Consideration of possible amendment to City Charter Article VIII, Section 9 regarding corrupt practices.

City Attorney Daggett noted the issue that triggered this possible Charter amendment was the question about campaign finance complaints and the risk that someone who is elected to office would be found to have had a campaign finance violation. She stated the Code provisions reviewed by Malarky and the Commission over the past few meetings address that issue for the most part. There have not been many issues with this Charter provision from a practical standpoint.

City Attorney Daggett stated if there was concern about the Charter provision applying to activities in advance of the April election, then a Charter change should perhaps be proposed to voters.

Chair Pignataro stated she is leaning toward leaving the provision as is for now.

Councilmember Summers supported leaving the provision as is or going with the option of deleting it and having it in the Code as an ordinance. Mayor Troxell agreed.

City Attorney Daggett noted there is a challenge when discussing constraining someone from serving in a Council seat if the ordinance is contained in the Code rather than a provision in the Charter.

City Attorney Daggett suggested Malarky explain options 2 and 3, as well. Malarky replied there has been a question as to the definition of “at a City election” and both options 2 and 3 attempt to clarify that. Option 2 contains a specific intent element which would make the provision a little more specific as to the type of conduct it is trying to address. It also contains a timeframe limitation for specific offenses. Option 3 has the same narrowing of timeframe and types of offenses, but without the specific intent element. Malarky acknowledged trying to prove intent can be challenging.

Chair Pignataro stated the intent piece introduces more confusion.

City Attorney Daggett clarified this item deals with the mechanics of the election rather than campaign activities.

Chair Pignataro asked what problem is being solved by this change. City Attorney Daggett replied the current language is vague in the sense that it talks about violating any law at a City election. It may or may not be an urgent problem in the sense that it has not actually been a problem other than during the last few elections when the number of complaints has increased and there has been more risk of someone being convicted of a campaign finance violation as a criminal misdemeanor. With the Code changes recommended by the Committee, that will no longer be an issue.
Councilmember Summers made some language suggestions. City Attorney Daggett replied staff will return with some options for how this could be approached at the next meeting.

iv. Consideration of possible amendment to City Charter Article VII, Section 8 regarding participation in elections by political parties, City employees, public service corporations or any other person intending to apply for a franchise or have a contract with the City.

The Committee postponed consideration of this item to the next meeting.

6. OTHER BUSINESS

None.

7. ADJOURNMENT

The meeting adjourned by unanimous consent at 5:00 PM.
July 1, 2020

ELECTION CODE COMMITTEE MEETING

4:00 PM

COUNCILMEMBERS PRESENT: Troxell, Pignataro, Summers
STAFF PRESENT: Carrie Daggett, Ryan Malarky, Delynn Coldiron, Rita Knoll, Sara Gonzales
CITIZENS PRESENT: Jody Deschenes and Robbie Moreland

(Secretary's Note: Due to the COVID-19 crisis and state and local orders to remain safer at home and not gather, all Councilmembers, staff, and citizens attended the meeting remotely, via teleconference.)

1. CALL MEETING TO ORDER

Chair Pignataro called the meeting to order and discussed the Zoom remote participation process.

2. CITIZEN COMMENT

Robbie Moreland stated she would like the Committee to discuss contribution limits to political committees. Avenues of unlimited spending still exists at both the local and state levels in the form of issue committees and independent expenditures.

Jody Deschenes noted the Committee did not agree to support limiting LLC contributions to candidate committees; therefore, she and others reached out for support from the remaining Councilmembers at the last Council meeting and she looks forward to the full Council discussion on implementing the change. Limits should exist on contributions to political committees and she looks forward to a full Council discussion on this as well. Deschenes requested discussions regarding updating campaign finance forms to some sort of accessible online database and allowing electronic signature collection for petitions.

3. CONSIDERATION AND APPROVAL OF JUNE 5, 2020 COMMITTEE MEETING MINUTES

Mayor Troxell made a motion, seconded by Councilmember Summers, to adopt the June 5, 2020 Committee meeting minutes. The motion was adopted by unanimous consent.

4. DISCUSSION ITEMS

a. Possible Charter Amendments

i. Consideration of possible amendments to City Charter Article VIII, Section 8 regarding participation in elections by political parties, City employees, public service corporations or any other person intending to apply for a franchise or have a contract with the City

City Attorney Daggett stated this item was placed on the agenda as there had been a great deal of question and discussion during the 2019 election around this Section of the Charter and what the limit on City employee direct or indirect contributions meant. In order for these changes to be in effect for the April 2021 election, Charter amendments would need to be considered on the November ballot. At this point in time, there is no specific plan to move forward with a special election in November and associated costs are expected to be several hundred thousand dollars. It is worth considering whether trying to move this forward now is necessary, though it is still possible should Council desire.

Councilmember Summers asked if this provision applies to Councilmembers. City Attorney Daggett replied there is a distinction between the Council as elected officials, or City officers, and other City employees.

Mayor Troxell asked if this applies to any other type of election. City Attorney Daggett replied it only applies to City Council candidate elections and does not interfere with employees participating on their own time using their own resources regarding issues in a City election.

Mayor Troxell asked how this provision applies to spouses. City Attorney Daggett replied it is limited to actions of the City employee.
Mayor Troxell expressed support for increasing clarity, but suggested the Charter language should remain as is.

Chair Pignataro agreed with Mayor Troxell and stated ballot wording is critical to lessen confusion.

City Attorney Daggett stated the Committee may want to state to the full Council it does not recommend action in terms of putting this item on the November ballot, but may want to ask staff to consider what clarifying language could be put in the Code to interpret the provision. Chair Pignataro and Mayor Troxell agreed with that assessment.

ii. Consideration of possible amendments to City Charter Article VIII, Section 9 regarding corrupt practices

Ryan Malarky, Assistant City Attorney, stated this item came to Council's attention in the last election cycle when there was an enforcement action that implicated this provision, specifically the portion that would have disqualified a person from holding Council office. In response to some of the concerns raised, staff researched the issue to attempt to bring some clarity to the purpose of the provision and what issues it may be trying to address. Research did not provide any clear answer as to what "at a City election" means; therefore, staff has provided some options to help bring clarity to the meaning of the Charter provision.

Malarky stated switching from a criminal process to an administrative penalty process would aid in alleviating concerns raised about this Section. One approach could be to not recommend a change to this Section now and see how the Council decides to approach the administrative penalty process. Another approach could be to send the administrative process to Council while simultaneously moving forward with changes to this language.

City Attorney Daggett noted there was discussion at the last Committee meeting about a modification to the Charter that would include a reference to disqualifying events and that could be included in a package of Charter changes when others come forward.

Mayor Troxell supported the first option to not act on the Charter language aspect at this time. Chair Pignataro agreed.

Councilmember Summers stated it makes sense to have administrative penalties for things that are not corrupt practices. He discussed the importance of contextualizing City policies.

City Attorney Daggett stated staff will work to have the Code changes finalized for discussion at the upcoming Council work session and consideration in August.

5. OTHER BUSINESS

a. Petitioning Process Update

Chair Pignataro noted the Colorado Supreme Court declared today that online petitions are not to be allowed.

Malarky stated the Court issued a ruling in a case that specifically challenged the Governor's order allowing online petitioning. The Court ruled online petitioning is unconstitutional as the state constitution requires in-person petitioning. He stated the effect of this on the City will be examined by staff.

Mayor Troxell noted there have been active signature solicitors recently.

Chair Pignataro asked if the Clerk's Office is still working on making campaign forms searchable. Chief Deputy City Clerk Knoll replied the date stamping issue has been resolved; however, forms are not required to be filled electronically; therefore, some handwritten reports are still received and those would have to be scanned and would not be searchable. She would like to require all parties to use the provided Excel spreadsheet, however, there were issues in the last election where people converted those to other software, and they were not formatted properly when returned. Forms returned in proper Excel format can be converted to a searchable PDF.
Chair Pignataro asked how to require candidates to use the provided Excel spreadsheet. Knoll replied staff has yet to discuss whether that can be legislated in the Code. City Attorney Daggett replied that could be examined to be included as part of the August changes.

Committee members and staff discussed the reporting requirements.

Mayor Troxell commended the City Clerk's Office for being service-oriented, particularly for first-time candidates.

Knoll noted the Excel spreadsheet format is helpful to avoid math errors.

City Attorney Daggett noted the Code already states that reports are to be submitted on forms provided by the City Clerk.

Chair Pignataro commended staff work on the memo regarding political committees.

Malarky stated the memo responds to some questions that came up at a recent Council meeting following public comment. The questions include how political action committees are regulated by the City Code, whether there is a limit on the amount of contributions that can be made to a political committee, and whether political committees have the ability to coordinate with other types of committees.

Knoll noted the City does not allow political committees to make contributions to candidate committees, though the state law does.

City Attorney Daggett noted any time the City is taking action that limits political activity, it creates a need to ensure First Amendment issues are being considered.

Chair Pignataro noted political committees, small-scale issue committees, and issue committees do not have contribution limits and asked if all three types of committees have the same types of attributes. City Attorney Daggett replied small-scale issue committees are handling so little money that the requirements to which they are subject has been pared back, pursuant to applicable case law. When one of those committees grows beyond that threshold, it becomes an issue committee. Issue committees focus on ballot questions whereas political committees are focused on candidate races, although they cannot coordinate with, nor make direct contributions to, candidates.

Chair Pignataro stated she is not comfortable making a change at this point.

City Clerk Coldiron stated there are no additional Committee meetings scheduled and noted the work of the Committee would typically stop at this point until after the next election. Staff will put forth an item calling for a special election in November simply as a placeholder.

Chair Pignataro asked if the Committee would need to meet again should Charter amendments be desired to be placed on the April ballot. City Clerk Coldiron replied that could either go before the Committee at another meeting or could go before the full Council.

Chair Pignataro suggested not scheduling another meeting at this time but waiting until after the work session to see if it would be needed. Mayor Troxell and Councilmember Summers concurred.

6. ADJOURNMENT

The meeting adjourned by unanimous consent at 4:55 PM.
ORDINANCE NO. 109, 2020
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING THE CODE OF THE CITY OF FORT COLLINS TO MODIFY AND UPDATE
REQUIREMENTS AND PROCEDURES FOR CITY ELECTIONS AND
CAMPAIGN FINANCE IN CITY ELECTIONS

WHEREAS, Chapter 7 of the City Code sets out procedures and requirements for
redistricting of Council districts, for the conduct of City elections, for disclosure of campaign
finance information, and other related matters; and

WHEREAS, in 2015 the City Council formed an ad hoc committee to review, discuss and
recommend the most beneficial changes to the Code and City Charter regarding elections and
other related matters; and

WHEREAS, in January 2017, Council made the ad hoc Committee a standing committee
of Council for the purpose of identifying and evaluating ideas for improvements to City election
laws and practices and anticipating adjustments that may be needed to adapt to a changing legal
and technological environment, for Council consideration; and

WHEREAS, as a result of the Committee’s work (as both an ad hoc committee and a
standing committee), Ordinance No. 021, 2016, Ordinance No. 005, 2017, Ordinance No. 045,
2018, Ordinance No. 077, 2018, and Ordinance No. 113, 2018 were considered and adopted by
the Council to update various provisions of Chapter 7; and

WHEREAS, the Committee continued to meet in 2018, 2019 and 2020, and has
recommended additional clarifications and amendments to Chapter 7; and

WHEREAS, the Committee has recommended that the Code be amended to including
new procedures for the handling of complaints filed by candidates or registered electors of the
City, including amendments such that a majority of campaign finance violations would be
changed from misdemeanor violations to civil infractions; and

WHEREAS, the Committee has recommended that the exceptional campaign contributions may be used for subsequent federal, state, county, local or
City elections, to the extent permitted by law; and

WHEREAS, the Committee has recommended that unexpended campaign funds
remaining with a candidate committee on the 70th day after the election will be considered
contributions to that candidate committee for the next election; and

WHEREAS, the Committee has recommended that the complainant cause of action in
Section 7-150 be removed from the Code because recent case law raises substantial concerns
about its constitutionality; and

WHEREAS, staff has recommended that the deadline for filing financial disclosures by
Councilmembers set out in Chapter 2 of the Code be made uniform for those Councilmembers
sitting on Council and for those newly elected, re-elected, appointed or retained Councilmembers; and

WHEREAS, these amendments generally improve and clarify the City’s campaign finance disclosure and election requirements and processes; and

WHEREAS, these amendments further the City’s and the public’s interest in shedding light for the public on the expenditure of money to influence the outcome of City elections, while respecting the speaker’s interest in freedom of political speech; and

WHEREAS, the Council desires to enact the recommendations of the Committee and staff to clarify and improve the various provisions of Chapter 2 and Chapter 7, as set forth below.

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

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

Section 2. That Section 2-636 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 2-636. Required.
Any candidate for the office of City Councilmember shall, at the time of filing his or her acceptance of nomination with the City Clerk, file with the City Clerk a written disclosure statement that conforms to the requirements of § 2-637. Such a written disclosure statement shall also be filed with the City Clerk by each member of the City Council, the City Manager and the City Attorney not later than thirty (30) days after their election, re-election, appointment or retention in office. Each member of the City Council who is elected, re-elected, appointed or retained in office shall also file such a written disclosure statement with the City Clerk not later than May 15 of the year in which their election, re-election, appointment or retention in office occurs, provided, however, that any City Councilmember who is elected or re-elected and who has, prior to said election or re-election, filed a written disclosure statement within ten (10) days after filing acceptance of nomination, may file an amended statement with the City Clerk or notify the City Clerk in writing that there has been no change in the disclosures made therein, since the date of filing of the same.

Section 3. That Section 7-135 of the Code of the City of Fort Collins is hereby amended to add a new Subsection (f) to read as follows, with subsequent Subsections renumbered accordingly:

Sec. 7-135. Campaign contributions/expenditures.

...
(f) No issue committee, small-scale issue committee or political committee shall make a
cortribution or cortribution in kind to any candidate committee.

(eg) Contributions from one (1) candidate committee to another.

(1) No candidate committee shall make a contribution or contribution in kind to, or
accept a contribution or contribution in kind from, a candidate committee of another
candidate.

(2) No candidate committee shall accept a contribution or contribution in kind from a
candidate committee of the same candidate that was established or maintained for a
federal, state or county election campaign or office.

... Section 4. That Section 7-136 of the Code of the City of Fort Collins is hereby
amended to read as follows:

Sec. 7-136. Disclosure; filing reports.

(a) All candidate committees, political committees and issue committees shall report to the
City Clerk their contributions and contributions in kind received, including the name and address
of each person who has made a contributions or a contributions in kind in the amount of twenty
dollars ($20.) or more; expenditures made; and obligations entered into by the committee.

... (g) Any report that is deemed by the City Clerk to be incomplete or inconsistent with the
requirements of this Article shall be accepted on a conditional basis, and shall be subject to the
penalties and process in § 7-143 and the committee’s registered agent shall be notified in writing
as to any deficiencies found. Such notice may be delivered in person, by mail, by fax, or, if an
electronic mail address is on file with the City Clerk, by electronic mail. The committee’s
registered agent shall have seven (7) business days from the date of delivery of such notice to file
an amended report that cures the deficiencies. Any such amended report shall supersede the
original report filed for the reporting period.

... Section 5. That Section 7-138 of the Code of the City of Fort Collins is hereby
amended to read as follows:

Sec. 7-138. Unexpended campaign contributions.

(a) Unexpended campaign contributions to a candidate committee may be:

(1) Contributed to a political party;

(2) Contributed to a candidate committee established by the same candidate for a
subsequent campaign in a City election, or to a candidate committee established
after January 1, 2021, for a non-City election, to the extent permitted by
applicable law. For a City election, such contributions are subject to the limitations set forth in Paragraph 7-135(e)(2), if the candidate committee making such a contribution is affirmatively closed by the candidate no later than ten (10) days after the date such a contribution is made:

(3) Donated to a charitable organization recognized by the Internal Revenue Service;
(4) Returned to the contributors;
(5) Used to pay for the cost of a recount requested by the candidate pursuant to § 7-46.

In no event shall contributions to a candidate committee be used for personal purposes not reasonably related to supporting the election or retention of the candidate.

(b) In addition to any use described in Subsection (a) of this Section, a person elected to the office of Mayor or Councilmember, or retained in office following a recall attempt, may use unexpended campaign contributions held by the person's candidate committee for any of the following purposes:

(1) Voter registration;
(2) Political issue education, which includes obtaining information from or providing information to the electorate;
(3) Postsecondary educational scholarships;
(4) To defray reasonable and necessary expenses related to mailings and similar communications to constituents;
(5) Any expenses that are directly related to such person's official duties as an elected official, including, but not limited to, expenses for the purchase or lease of office equipment and supplies, room rental for public meetings, necessary travel and lodging expenses for legislative education such as seminars, conferences and meetings on legislative issues, and telephone and pager expenses.

(c) A candidate committee for a former officeholder or a person not elected to office shall expend all of the unexpended campaign contributions retained by such candidate committee, for the purposes specified in Subsection (a) of this Section, no later than five (5) years from the date such officeholder's term expired or from the date of the election at which such person was a candidate for office, whichever is later.

(d) Unexpended campaign contributions to an issue committee or political committee may be donated to any charitable organization recognized by the Internal Revenue Service, returned to the contributor, or used to pay for the cost of a recount requested by the committee's registered agent pursuant to § 7-46.

(e) Any unexpended campaign contributions held by a candidate committee subsequent to the date of the election shall, upon the registration of a candidate committee for a City office in a subsequent election, be available for that candidate committee as a beginning fund balance to use in that election. Such carryover funds will not count against any contribution limit attributable to any past contributor in a prior election campaign. Absent the candidate registering a candidate committee for a City office in a subsequent election, the unexpended campaign contributions may be used as otherwise set forth in this Section.
Section 6. That Section 7-143 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 7-143. Violations and penalties.

(a) Except as provided in Subparagraph (e) herein, any person who knowingly violates or fails to comply with any of the provisions of this Article as set forth in the following schedule commits a misdemeanor and is subject to a fine or imprisonment in accordance with § 1-15 as follows:

<table>
<thead>
<tr>
<th>Code Section</th>
<th>Penalty Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>7-134 - Registration of committees; termination.</td>
<td>$150 first offense; $300 each subsequent offense</td>
</tr>
<tr>
<td>7-135 - Campaign contributions/expenditures.</td>
<td>$100 first offense; $200 each subsequent offense</td>
</tr>
<tr>
<td>7-136 - Disclosure; filing of reports.</td>
<td>$100 first offense; $200 each subsequent offense</td>
</tr>
<tr>
<td>7-137(b) - Reports to be public record.</td>
<td>$50 first offense; $100 each subsequent offense</td>
</tr>
<tr>
<td>7-138 - Unexpended campaign contributions.</td>
<td>$100 first offense; $200 each subsequent offense</td>
</tr>
<tr>
<td>7-139 - Independent expenditures</td>
<td>$100 first offense; $200 each subsequent offense</td>
</tr>
<tr>
<td>7-140 - Responsibility for communications.</td>
<td>$50 first offense; $100 each subsequent offense</td>
</tr>
<tr>
<td>7-141 - Expenditures for political advertising; rates and charges.</td>
<td>$50 first offense; $100 each subsequent offense</td>
</tr>
</tbody>
</table>

(b) Any person who undertakes any of the following commits a misdemeanor and is subject to a fine or imprisonment in accordance with § 1-15:

1. Knowingly violates § 7-136 with the intent to fraudulently misrepresent campaign contributions or expenditures on a disclosure report;

2. Knowingly violates § 7-142; or

3. Is found liable for a violation after the person has been found liable for two (2) or more violations under this Article in a single election cycle.

(c) Failure to comply with the provisions of this Article shall have no effect on the validity of any election, except as expressly required by the City Charter.

Section 7. That Section 7-145 of the Code of the City of Fort Collins is hereby amended to read as follows:
Sec. 7-145. Allegation of campaign violation.

... 

(c) For complaints that allege a criminal violation as set forth in § 7-143(b), the City Clerk will forward the complaint to the respondent and to the City Attorney, who will evaluate the complaint for probable cause as provided for in this Division 2.

(d) For complaints that do not allege a criminal violation, the complaints shall be subject to a civil infraction process as provided herein:

(1) The City Clerk will forward the complaint to the respondent by electronic mail, notifying the respondent that the alleged violation may be subject to a civil infraction.

(2) The City Clerk will forward the complaint to the City Attorney, who shall review the complaint to determine whether the complaint:

   a. Was timely filed under § 7-145(a);

   b. Contains the information required by § 7-145(b); and

   c. Alleges sufficient facts to support a factual and legal basis for the violations alleged.

(3) If the City Attorney determines that the complaint fails to satisfy any of the three (3) elements in the immediately preceding Subsection (2), the City Attorney shall so notify the City Clerk who will, in turn, notify the complainant and respondent in writing.

(4) If the City Attorney determines that the complaint satisfies the three (3) elements in the immediately preceding Subsection (2), the City Attorney shall notify the City Clerk who will, in turn, notify the respondent in writing of the presumptive penalty in accordance with § 7-143(a) and that the respondent shall have seven (7) days from the date of the notice to submit written evidence of its cure or diligent efforts to cure the violation, including any amendments to any applicable report containing one or more deficiencies, modified campaign materials or other proof that the violation has been corrected. The respondent’s written response shall be due to the City Clerk no later than 5:00 p.m. on the seventh (7th) day. In the event the seventh (7th) day is a City holiday, the response shall be due no later than 5:00 p.m. the next business day.

(5) On receipt of the respondent’s written response, the City Attorney may, through the City Clerk, ask the respondent to provide more information and may grant the respondent an extension of time of up to seven (7) additional days to file an amended response regarding cure in order to respond to any such request.
After the period for cure has expired, the City Attorney shall determine whether the respondent has cured any violation alleged in the complaint and, if so, whether respondent has substantially complied with its legal obligations under Chapter 7, Article 5, of this Code. In determining whether the respondent has substantially complied with its legal obligations, the City Attorney shall consider:

a. The extent of the respondent’s noncompliance;

b. The purpose of the provision violated and whether that purpose was substantially achieved despite the noncompliance; and

c. Whether the noncompliance may properly be viewed as an intentional attempt to mislead the electorate or election officials.

If the City Attorney determines the respondent has cured any violation or otherwise substantially complied with its legal obligations under Chapter 7, Article 5, the City Attorney shall so notify the City Clerk who, in turn, shall notify the complainant and the respondent and no penalty shall apply for the corresponding alleged violation or violations, as applicable.

If the City Attorney determines the respondent has not cured the alleged violation or otherwise substantially complied with its legal obligations, the City Attorney may conduct additional review or investigation of the allegations of the complaint to determine whether to file a complaint with the Municipal Court.

If the City Attorney files a complaint with the Municipal Court, the matter shall be governed by Article V of Chapter 19 of this Code.

A complainant or any other nonrespondent shall not be a party to the City Attorney’s initial review, cure proceedings, investigation, or any proceeding in the Municipal Court. A complainant may request permission from the Municipal Judge or their designee to file an amicus curiae brief.

Any person that commits a violation shall be personally liable for the penalties imposed. Any candidate shall be personally liable for penalties imposed upon the candidate or the candidate’s committee and may use campaign contributions to pay penalties.

Section 8. That Section 7-146 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 7-146. Evaluation of campaign complaint.

(a) For those complaints that concern a criminal violation pursuant to § 7-143(b), if the City Attorney determines that no probable cause exists, that the complaint fails to allege an enforceable violation, or that the requirements of § 7-145 were not met by the
complainant, the City Attorney shall so notify the City Clerk, who will, in turn, notify the complainant and respondent in writing.

(b) If the City Attorney determines probable cause exists, the City Attorney may notify Fort Collins Police Services, who, in consultation with the City Attorney, may file and serve a summons and complaint to the respondent.

(c) The City Attorney retains prosecutorial discretion on whether to ultimately file criminal charges. If the City Attorney determines filing a summons and complaint is inappropriate, he or she shall so notify the City Clerk, who will, in turn, notify the complainant and respondent in writing.

Section 9. That Section 7-150 of the Code of the City of Fort Collins is hereby deleted in its entirety and held in reserve.

Sec. 7-150. Action by complainant.

(a) After having received written notification from the City Clerk pursuant to § 7-146 that the City Attorney determined filing a summons and complaint is inappropriate, or after one hundred eighty (180) days of filing the complaint, whichever is first, the complainant may bring a civil action in District Court.

(b) The complainant has one (1) year from the date of the violation to bring such suit.

(c) The complainant may sue to compel compliance with this Article, provided however, that complainant must first file a complaint with the City Clerk, pursuant to Section 7-145, and otherwise exhausts his or her administrative remedies.

(d) Any person who knowingly violates this Article may be civilly liable in an amount up to two thousand dollars ($2,000.), or, if applicable, three (3) times the amount of the discrepancy, whichever is greater.

(e) Reasonable attorneys’ fees for the prevailing party may be awarded if the amount of civil liability alleged is greater than seven thousand five hundred dollars ($7,500.).

(f) In determining the amount of civil liability, the court may take into account the seriousness of the violation and culpability of the defendant.
Introduced, considered favorably on first reading, and ordered published this 1st day of September, A.D. 2020, and to be presented for final passage on the 15th day of September, A.D. 2020.

ATTEST:

Mayor

_______________________________

City Clerk

Passed and adopted on final reading on the 15th day of September, A.D. 2020.

ATTEST:

Mayor

_______________________________

City Clerk
This item was not discussed by the Election Code Committee.

Campaign Contributions/Expenditures (Section 7-135):

Adding Section 7-135(f) clarifies that no issue committee, small-scale issue committee or political committee shall make a contribution or contribution in kind to any candidate committee.

Elimination of Non-Itemized Contributions (Section 7-136):

Currently all candidate committees, political committees and issue committees must report all contributions and contributions in kind received in the amount of $20 or more. Members of the public attending ECC meetings expressed concerns about a lack of transparency resulting from not requiring the same disclosure for contributions and contributions in kind that are less than $20. One example provided was the use of a jar or “fishbowl” at election events where contributions are accepted without any documentation regarding the amount of individual contributions. Such fishbowls or other undocumented small contributions are problematic since there is no way to ensure a contributor is not exceeding contribution limits. This proposal eliminates anonymous donations and requires that all donations, no matter the amount, be reported.

Use of Unexpended City Campaign Funds in Non-City Elections and Carry-Over of Candidate Committee Contributions to the Next Election Cycle (Section 7-138):

Amending Section 7-138(a)(2) will enable unexpended campaign contributions to a candidate committee to be contributed to a candidate committee established by the same candidate for a subsequent campaign in a federal, state, county or city election, subject to campaign finance laws applicable to federal, state and county elections. Currently, the Code allows that unexpended contributions can only be used for a subsequent city campaign. In order to avoid any effect on current Councilmember committees, the change applies only to Council candidate committees formed after January 1, 2021.

Amending Section 7-138(e) will enable a candidate committee to continue to use the same candidate committee and any unexpended funds for the next City election. Currently, candidate committees can contribute unexpended campaign contributions to a new candidate committee, with a new name, established by the same candidate for a subsequent election, but must close the current candidate committee no later than 10 days after establishing the new candidate committee. This change is intended to reduce the administrative burden on those candidates and their committees that intend to participate in a subsequent City election.

Changes to the Campaign Finance Violation Process (Section 7-136, Section 7-143, Section 7-145, Section 7-146, Section 7-150):

This language amends several sections of the City Code to establish a civil infraction process, whereby a set civil penalty may be imposed against a candidate or committee for certain campaign finance violations.

Most violations would no longer be criminal misdemeanors, meaning there would no longer be a risk of imprisonment or loss of office. However, the following violations are proposed to remain criminal misdemeanors: (1) when a person violates disclosure requirements with the intent to fraudulently misrepresent contributions or expenditures; (2) when a person offers a candidate or candidate committee money or anything of value to withdraw, or a candidate offers to withdraw for money or anything of value; or (3) when a person commits a violation or violations after already being found liable for two violations, all in a single election cycle. In the latter case, the third and any subsequent violation would be a misdemeanor.

Alleged criminal violations would not be subject to the civil infraction process but would remain subject to review by the City Attorney’s Office for probable cause.

Under this new civil infraction process, the respondent will be notified of any complaint received. The City Attorney or their designee will review the complaint for legal sufficiency. If the City Attorney determines the complaint is sufficient, the alleged violator (the “respondent”) will be notified of the presumptive penalty and
given the opportunity to pay the penalty or have seven (7) days to submit written evidence of correction of the violation or diligent efforts to correct the violation. If the respondent fails to act, or the City Attorney determines the respondent has not corrected the alleged violation and otherwise substantially complied with its legal obligations, the respondent will be given the choice to pay an associated penalty or to contest the complaint through a hearing before the Municipal Court following the City’s already-established procedures for civil infractions in Chapter 19, Article V of the City Code. It is expected that an assistant judge would be assigned to handle any such proceeding in the Municipal Court to avoid any actual conflicts of interest the Chief Judge may have or the appearance of such conflict of interest.

Just as with other civil infractions, if a penalty is imposed by the Municipal Court but goes unpaid, the City would have the authority to collect the penalty as a debt to the City. Candidates would be personally liable for penalties. Candidates would be allowed to use campaign contributions to pay penalties.

Specifically, the proposed changes would:

1. Amend Section 7-136(g) to make reports that are incomplete or inconsistent with Code requirements to be subject to the penalties and process outlined in Section 7-143.

2. Amend Section 7-143(a) to create a schedule of violations subject to civil penalties with an associated dollar amount.

3. Create a new Section 7-143(b) to clarify that a misdemeanor, subject to a fine or imprisonment in accordance with Section 1-15 would continue for the following:
   a) A person or committee that violates disclosure requirements with the intent to fraudulently misrepresent contributions or expenditures; or
   b) A person who offers a candidate or candidate committee money or anything of value to withdraw, or a candidate who offers to withdraw for money or anything of value; or
   c) When a person is found liable for a violation after the person is found liable for two (2) or more violations under Chapter 7, Article V in a single election cycle.

4. Amend Section 7-143(c) to clarify that failure to comply with the provisions of this Article will have no effect on the validity of any election, except as expressly required by the City Charter.

5. Amend Section 7-145(c) to make it clear that the City Clerk will forward any complaints received that allege a criminal violation to the respondent as well as the City Attorney.

6. Create a new Section 7-145(d) related to processing complaints that do not allege a criminal violation and sets out the civil infraction process that will be utilized.

7. Amend Section 7-146 to clarify that the City Attorney will continue to review those complaints that concern criminal violations as opposed to civil infractions.

8. Eliminate Section 7-150 which currently allows a citizen complainant to bring a civil action in state district court after either receiving written notification from the City Clerk that the City Attorney determined filing a summons and complaint is inappropriate, or after one hundred eighty (180) days of filing the complaint, whichever occurs first. Staff is proposing this be removed due to recent case law calling into question the constitutionality of similar citizen enforcement mechanisms at the state election level.
The City Attorney will need to use an outside attorney, as in past practice, when a complaint is against a Council candidate. The Chief Judge will also likely need to use an assistant judge. The need to use an outside attorney for initial review and a special judge may have some budget implications that have not yet been addressed. The assistant judge would likely be an outside judge under contract for assistant judge services, as with other assistant judges in the Municipal Court. The assistant judge contract would be managed by the Chief Judge and the Municipal Court, while the outside legal counsel for initial review of complaints, as needed, would be retained by the City Attorney’s Office.

The ECC discussed two additional issues and encouraged staff to bring them forward to the entire Council for discussion. These items include regulation of Limited Liability Company (LLC) contributions and limiting contributions to political committees.

Regulation of Limited Liability Company contributions and placing a limitation on contributions to Political Committees are moving forward to Council under separate ordinance as requested at the April 25, 2020 Work Session.

CITY FINANCIAL IMPACTS

Any financial impacts as a result of these amendments will be negligible.

BOARD / COMMISSION RECOMMENDATION

None.

PUBLIC OUTREACH

Meetings of the Election Code Committee are posted on the City’s website in advance of the meeting. Several members of the community regularly attend Committee meetings and provide input on topics on the agenda and other items of interest. Draft minutes from these meetings are attached. (Attachment 2).
AGENDA ITEM SUMMARY
City Council

September 1, 2020

STAFF

Darin Atteberry, City Manager
Travis Storin, Interim Chief Finance Officer
John Duval, Legal

SUBJECT

Resolution 2020-081 Setting the Dates of the Public Hearings on the 2021 Proposed City of Fort Collins Budget.

EXECUTIVE SUMMARY

The purpose of this item is to set two public hearing dates for the proposed 2021 budget that the City Manager has filed with the City Clerk pursuant to Section 2 of City Charter Article V. Section 3 of City Charter Article V now requires Council to set a date for a public hearing on the proposed budget and to cause notice of the hearing to be published. This Resolution sets two public hearing dates. The first for Council's regular meeting on September 15, 2020, and the second for its regular meeting on October 6, 2020. The Resolution also directs the City Clerk to publish the notice of these two hearings that is attached as Exhibit “A” to the Resolution.

STAFF RECOMMENDATION

Staff recommends adoption of the Resolution.
RESOLUTION 2020-081
OF THE COUNCIL OF THE CITY OF FORT COLLINS
SETTING THE DATES OF THE PUBLIC HEARINGS ON THE 2021 PROPOSED CITY OF FORT COLLINS BUDGET

WHEREAS, City Charter Article V, Section 2 provides that the City Manager shall file with the City Clerk on or before the first Monday in September preceding each budget term the proposed budget for that ensuing budget term; and

WHEREAS, City Charter Article V, Section 1 provides that the City Council is to set by ordinance the number of fiscal years that shall constitute the City’s “budget term”; and

WHEREAS, in 2010, the City’s budget term was set in City Code Section 8-1 as being two fiscal years, so a biennial budget term; and

WHEREAS, under Code Section 8-1, the City’s next biennial budget term would be for fiscal years 2021 and 2022 (the “2021-22 Budget Term”); and

WHEREAS, on May 19, 2020, City Council adopted Ordinance No. 067, 2020, (“Ordinance No. 067”) suspending for only the 2021-22 Budget Term the biennial budget term required by Code Section 8-1 to allow for one-year budget terms for both fiscal years 2021 and 2022 due to the economic turmoil and uncertainty that has occurred because of the COVID-19 global pandemic; and

WHEREAS, the City Manager has therefore filed with the City Clerk a proposed budget for the City of Fort Collins for the fiscal year 2021 (the “Proposed 2021 Budget”) as required in Article V, Section 2 of the City Charter and as authorized in Ordinance No. 067; and

WHEREAS, Article V, Section 3 of the City Charter requires that, within ten days of the date of the filing of the proposed budget with the City Clerk by the City Manager, the City Council shall set a time certain for a public hearing and cause a notice of the hearing to be published; and

WHEREAS, the City Council wishes to set two hearing dates to receive public input on the Proposed 2021 Budget and to cause the publication of a notice for these two hearings.

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

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

Section 2. That public hearings will be conducted by the City Council at the City Council Chambers, City Hall West, 300 Laporte Avenue on September 15, 2020, and October 6, 2020, at 6:00 p.m., or as soon thereafter as the matter may come on for hearing, to receive public input on the Proposed 2021 Budget.
Section 3. That the notice of these two public hearings, which is attached hereto as Exhibit “A” and incorporated herein by reference, is ordered to be promptly published by the City Clerk in the Fort Collins Coloradoan.

Passed and adopted at a regular meeting of the Council of the City of Fort Collins this 1st day of September, A.D. 2020.

Mayor

ATTEST:

________________________________________
City Clerk
NOTICE OF PUBLIC HEARINGS
OF THE COUNCIL OF THE CITY OF FORT COLLINS CONCERNING THE CITY’S
PROPOSED 2021 BUDGET

Notice is hereby given that public hearings will be held by the Council of the City of Fort Collins in the Council Chambers in City Hall West, 300 LaPorte Avenue in the City of Fort Collins, Colorado, on Tuesday, the 15th day of September 2020, and Tuesday, the 6th day of October, 2020, at the hour of 6:00 p.m., or as soon thereafter as the matter may come on for hearing, to receive public input on the proposed 2021 budget for the City of Fort Collins.

Upon request, the City of Fort Collins will provide language access services for individuals who have limited English proficiency, or auxiliary aids and services for individuals with disabilities, to access City services, programs and activities. Contact 221-6515 (V/TDD: Dial 711 for Relay Colorado) for assistance. Please provide 48 hours advance notice when possible.

A solicitud, la Ciudad de Fort Collins proporcionará servicios de acceso a idiomas para personas que no dominan el idioma inglés, o ayudas y servicios auxiliares para personas con discapacidad, para que puedan acceder a los servicios, programas y actividades de la Ciudad. Para asistencia, llame al 221-6515 (V/TDD: Marque 711 para Relay Colorado). Por favor proporcione 48 horas de aviso previo cuando sea posible.

Dated this 6th day of September, A.D. 2020.

Delynn Coldiron, City Clerk
STAFF

Elizabeth Blythe, Senior Public Engagement Coordinator
Delynn Coldiron, City Clerk
Carrie Daggett, City Attorney

SUBJECT

Resolution 2020-082 Making Appointments to Various Boards and Commissions.

EXECUTIVE SUMMARY

The purpose of this item is to appoint four individuals to fill vacancies on the Affordable Housing Board, Landmark Preservation Commission, Human Relations Board and the Economic Advisory Board that exist due to the resignation of previous members.

STAFF RECOMMENDATION

Staff recommends adoption of the Resolution.

BACKGROUND / DISCUSSION

This Resolution appoints four individuals recommended by the interview teams shown below to fill vacancies on various boards and commissions.

These appointments will begin immediately with terms to expire on December 31, 2020 (filling the remainder of the terms per Council discussion at the December 10, 2019, work session).

Affordable Housing Board

Due to the resignation of Rachel Auldridge, Councilmember Gorgol and Mayor Troxell interviewed applicants and recommend Daphne Bear to fill the remainder of the unexpired term ending on December 31, 2020.

Landmark Preservation Commission

Due to the resignation of Anna Simpkin, Councilmember Gutowsky and Mayor Troxell interviewed applicants and recommend Jim Rose to fill the remainder of the unexpired term ending on December 31, 2020.

Human Relations Commission

Due to the resignation of Shawn Melton, Councilmember Cunniff and Councilmember Gorgol interviewed applicants and recommend Patrick Dawson to fill the remainder of the unexpired term ending on December 31, 2020.
Economic Advisory Commission

Due to the resignation of Denny Otsuga, Councilmember Gorgol and Mayor Pro Tem Stephens interviewed applicants and recommend Julie Stackhouse to fill the remainder of the unexpired term ending on December 31, 2020.

ATTACHMENTS

1. Redacted Applications  (PDF)
APPLICATION FOR BOARD OR COMMISSION MEMBERSHIP

ATTACHMENTS TO APPLICATION MUST BE LIMITED TO TWO PAGES
INCOMPLETE APPLICATIONS WILL NOT BE CONSIDERED FOR APPOINTMENTS.

If you have questions or need more information, contact:
City Clerk’s Office (300 LaPorte Avenue) at 970.416.2525

Eligibility Requirements  - 1 year residency within the Fort Collins Growth Management Area

Board or Commission: Affordable Housing Board

Name:  Dan Chilson

Mailing Address:  
Residence:  
Home Phone:  
E-Mail Address:  

Zip:  

Have you resided in the Fort Collins Growth Management Area for at least one year?  Yes  No

Which Council District do you live in?  Outside City Limits

Current Occupation: Export Sales Mgr  Employer:Follett LLC

Recent and/or relevant work experience (please include dates)  Early in my career I worked in mortgage and I also worked on development of housing for low income families in the Latin America-Caribbean region and in Africa.

Recent and/or relevant volunteer experience (please include dates)  Care housing---back in the 1990’s.  My role was to help identify suitable properties for future project development.

Are you currently serving on a City board or commission?  Yes  No

If so, which one?

Why do you want to become a member of this particular board or commission?  My primary goal is to give back to this community  The need for affordable housing is acute and with the steady rise in real estate values the affordability equation becomes steeper each year.

Have you attended a meeting of the board or commission you are applying to or talked to anyone currently on the board?  Yes  No

If yes, please share your experience:

List any abilities, skills, certificates, specialized training, or interests you have which are applicable to this board or commission:

Spanish language fluency and, although dated, my past work on projects for low income people in other countries.
Briefly explain what you believe are the three most important issues facing this board or commission, and how do you believe this board or commission should address each issue?

1)  1./ Provide affordable housing to Fort Collins' working poor; work with developers to integrate affordable units into planned developments  
     2./ the geographic spread of the Ft Collins area (impact on transport and infrastructure); greater focus on infill, density within the city  
     3./

2)  2./ the geographic spread of the Ft Collins area (impact on transport and infrastructure); greater focus on infill, density within the city

3)  3./ Upgrades to some of the city's existing affordable housing. For example, mobile home parks that are in disrepair. Give incentives to the owners of those communities to make improvements.

Please specify any activities which might create a serious conflict of interest if you should be appointed to this board or commission:

Upon application for and acceptance of appointment, board and commission members demonstrate their intention and ability to attend meetings. If appointed, frequent nonattendance may result in termination of the appointment.

By typing your name in the space provided, I submit my electronic signature and application to the City of Fort Collins and swear or affirm under penalty of perjury pursuant to the laws of the State of Colorado:
- that I meet the eligibility requirements of the position sought and
- that the information provided in this application is true and correct to the best of my knowledge.

Signature: ____________________________ Date: ______________

Optional: How did you learn of a vacancy on this board or commission:

☐ Newspaper  ☐ Cable 14  ☐ City News (Utility Bill Insert)  ☐ Website

Other (please specify) ______________________________________________________________________________________
I have just turned 65 and will be retiring within a year from a career in export sales management. My wife and I have raised three children in this wonderful community. My work has always involved a lot of travel and consequently I found it difficult to sustain a commitment as a volunteer. The only exception was coaching baseball with the Fort Collins Baseball Club, where the teams were happy to have me show up for practices and games whenever I could. Now as I will wind down my career, I will have the time to commit and would welcome the opportunity to give back to our community.
APPLICATION FOR BOARD OR COMMISSION MEMBERSHIP

PLEASE TYPE OR USE BLACK INK. ATTACHMENTS TO APPLICATION MUST BE LIMITED TO TWO PAGES. INCOMPLETE APPLICATIONS WILL NOT BE CONSIDERED FOR APPOINTMENT.

Return completed applications to:
City Clerk’s Office, 300 LaPorte Avenue or mail to P.O. Box 580, Fort Collins, CO 80522
If you have questions or need more information, contact the City Clerk’s Office at 970.221.6515

Eligibility Requirements: 1 year residency within the Fort Collins Growth Management Area

(Please complete one application for each board or commission membership. You may apply for 2 boards at a time)

Name: Mark Bishop
Mailing Address: ____________________________________________ Zip: _____________
Residence: _________________________________________________ Zip: _____________
(If different than Mailing Address)
Home Phone: ___________________ Work Phone: ___________________ Cell Phone: ________________
E-mail: _______________________

Have you resided within the Fort Collins Growth Management Area for one year? Yes [ ] No [x]
Which Council District do you live in? __________________________

Current Occupation: Advisor ___________________________ Employer: NAI Affinity

Recent and/or relevant work experience (please include dates):
NAI Affinity: Real Estate Advisor 1/19 - Present Housing Colorado: Member 1/19 - Present
Real Estate Broker 1/13 - Present
ULI Northern Colorado: Member 12/18 - Present

Recent and/or relevant volunteer experience (please include dates):
Neighbor to Neighbor: Asset management team member - 3/19 - Present
Habitat for Humanity: Volunteer 6/18 and 6/19

Are you currently serving on a City board or commission? Yes [x] No [ ]
If so, which one? ___________________________________________

Why do you want to become a member of this particular board or commission?

Working in different roles in the real estate industry has given me a first hand experience of the challenges for affordable housing in our community. Most of my experience is with consulting on LIHTC projects. I believe that I can make a meaningful contribution to the board and our city by continuing to expand my involvement and my understanding of the current work being done in a more broad perspective.

Have you attended a meeting of the board or commission you are applying to or talked to anyone currently on the board? Yes [x] No [ ]

If Yes, please share your experience:

I had a brief conversation with Sue Beck-Ferkiss on 7/2/20. She helped me better understand the role and responsibility of the board. We talked a bit about any conflict of interest and where those boundaries exist. I am trying to attend the zoom meeting on 7/7/20. I also pulled up last year's minutes to learn a bit about recent topics.

List any abilities, skills, licenses, certifications, specialized training, or interests you have which are applicable to this board or commission:

I hold a broker license for real estate with the State of Colorado. That license, work and continuing education in multi-family housing and development is most relevant. I also attend the Housing Now conference every year to keep current on affordable housing topics and challenges. LIHTC has been a focus for the last 4-5 years. I am always interested to learn more and improve my understanding in different areas.
Briefly explain what you believe are the three most important issues face this board or commission, and how do you believe this board or commission should address each issue?

1) Construction Costs continue to rise and make all housing products more expensive to build and thus more expensive to own or rent. The cost of water may be the most daunting and deserve to stand alone as its own concern. But, labor, materials and fees add into these concerns as well. I'm interested in some creative ideas to try and address these continuing rise in costs.

2) Community acceptance is a big challenge. There are misconceptions around affordable housing projects in our area. The "not in my back yard" sentiment is a common attitude. There are also challenges over whether or not it is the role of the government to help provide these solutions. I believe that the high standards in Fort Colins can overcome these concerns. It does take continued effort and outreach, especially to meet the city's needs and goals for number of units.

3) I believe to meet our goals we need to continue to focus on building the pipeline for projects in Fort Collins. Specifically, the tax credit projects carry with them significant complications and inefficiencies. Anything that can help smooth this path, help create clarity for developers and advocate for affordable housing projects will help move that needle.

Please specify any activities which might create a serious conflict of interest if you should be appointed to this board or commission:

I do not currently have any projects that I believe create a conflict of interest. Neighbor to Neighbor is working towards an acquisition rehabilitation project that I might have some familiarity and bias towards. However, I do not stand to make any money off of that project.

I can see in the future that I might need to recuse myself from some of the ranking of projects, etc. At this time, I am not working on anything that creates that conflict. I am sensitive to these concerns and am learning more about these boundaries. I believe that I can navigate conflict of interest issues fairly seamlessly.

Upon application for and acceptance of appointment, board and commission members demonstrate their intention and ability to attend meetings. If appointed, frequent nonattendance may result in termination of the appointment.

By signing and submitting my application to the City of Fort Collins, I swear or affirm under penalty of perjury pursuant to the laws of the State of Colorado:

# that I meet the eligibility requirements of the position sought and
# that the information provided in this application is true and correct to the best of my knowledge.

Signature: ___________________________ Date: 7/5/20

Optional: How did you learn of a vacancy on this board or commission?

☐ Newspaper ☐ Cable 14 ☐ City News (Utility Bill Insert) ☐ Website

Other (please specify) Through a friend
APPLICATION FOR BOARD OR COMMISSION MEMBERSHIP

ATTACHMENTS TO APPLICATION MUST BE LIMITED TO TWO PAGES
INCOMPLETE APPLICATIONS WILL NOT BE CONSIDERED FOR APPOINTMENT

If you have questions or need more information, contact:
City Clerk’s Office (300 LaPorte Avenue) at 970.416.2525

Eligibility Requirements
- 1 year residency within the Fort Collins Growth Management Area

Board or Commission: Affordable Housing Board

Name: Janelle W

Mailing Address: ___________________________________________ Zip: __________
Residence: ________________________________________________ Cell Phone: __________
Home Phone: ______________ Work Phone:______________________
E-Mail Address: __________________________

Have you resided in the Fort Collins Growth Management Area for at least one year? ☑ Yes ☐ No

Which Council District do you live in? District 6

Current Occupation: Administrative Assistant Employer: Inotiv

Recent and/or relevant work experience (please include dates) United States Air Force Security Forces-May 2014-May 2020Security at Aztlan Center temporary homeless shelter- March 2020-May 2020

Recent and/or relevant volunteer experience (please include dates) Fort Collins Rescue Mission- Preparing food for the homeless- December 2019

Are you currently serving on a City board or commission? ☐ Yes ☑ No

If so, which one?

Why do you want to become a member of this particular board or commission? I believe Fort Collins is a beautiful city and one everyone should have the chance to experience it regardless of financial status. I want to help make Fort Collins possible for everyone.

Have you attended a meeting of the board or commission you are applying to or talked to anyone currently on the board? ☐ Yes ☑ No

If yes, please share your experience:
N/A

List any abilities, skills, certificates, specialized training, or interests you have which are applicable to this board or commission:
- Years of high level administrative work-Courses taken on Human Resources-Profound communication skills
Briefly explain what you believe are the three most important issues facing this board or commission, and how do you believe this board or commission should address each issue?

1) The price of living in Fort Collins has increased substantially. A house in just 2014 would typically sell for $250,000. Now that same house could sell for close the double the original amount. Our city has a percentage of people who can no longer afford houses in this price range. People who have lived here their whole lives are now being forced elsewhere in order to get by. More options for housing based on the income of individuals should be made available so that Fort Collins can keep the people who have added so much to this beautiful city.

2) As the population rises, so does the cost of living. The population in Fort Collins has nearly doubled in the last 25 years. From a small farming city to a bigger family city, Fort Collins is attracting people from all over the US. With that, our city is in need of more places to house everyone. Regardless of income, Fort Collins is growing. Thankfully, Fort Collins has started out with a huge amount of open land and now is the opportunity to take advantage of this. By building on open lots and incorporating the natural beauty of this mountain town, we can fulfill the needs of every citizen.

3) Current world issues have directly effected job availability to Fort Collins citizens, causing the need for more affordable housing options in order to stay in a city called home. Jobs lost during the last year have directly effected Fort Collins’ financial status in almost every department. Our city needs more options of living; town-homes, apartments for sale and not just rent, even manufactured homes. These options are cheaper to develop therefore, cheaper to sell to the citizens struggling in our city.

Please specify any activities which might create a serious conflict of interest if you should be appointed to this board or commission:

N/A

Upon application for and acceptance of appointment, board and commission members demonstrate their intention and ability to attend meetings. If appointed, frequent nonattendance may result in termination of the appointment.

By typing your name in the space provided, I submit my electronic signature and application to the City of Fort Collins and swear or affirm under penalty of perjury pursuant to the laws of the State of Colorado:

- that I meet the eligibility requirements of the position sought and
- that the information provided in this application is true and correct to the best of my knowledge.

Signature: ____________________________ Date: ____________________

Optional: How did you learn of a vacancy on this board or commission:

☐ Newspaper ☐ Cable 14 ☐ City News (Utility Bill Insert) ☐ Website

Other (please specify) ____________________________

Packet Pg. 153
APPLICATION FOR BOARD OR COMMISSION MEMBERSHIP

Eligibility Requirements
- 1 year residency within the Fort Collins Growth Management Area

Board or Commission: Affordable Housing Board

Name: Kathryn Regan

Mailing Address: ____________________________________________ Zip: __________
Residence: ____________________________________________________________
  Home Phone: ______ Work Phone: E-Mail: __________________ Zip: __________
Address: ____________________________________________________________

Have you resided in the Fort Collins Growth Management Area for at least one year? □ Yes □ No
Which Council District do you live in? District 3

Current Occupation: Retired Employer: ___________________________________________

Recent and/or relevant work experience (please include dates) For thirty years I was an Administrative
in a school for developmentally delayed students in NY.

Recent and/or relevant volunteer experience (please include dates) Up until the last couple months I volunteered
at the Murphy Center one day a week and at Catholic Charities one day a week. Unfortunately when COVID virus
became evident I was not comfortable continuing volunteering.

Are you currently serving on a City board or commission? □ Yes □ No
If so, which one?

Why do you want to become a member of this particular board or commission? As a senior I am very
aware of the need for affordable housing in Fort Collins. I would like to contribute my thoughts and hopefully
affect change.

Have you attended a meeting of the board or commission you are applying to or talked to anyone currently on the bo
□ Yes □ No
If yes, please share your experience:

List any abilities, skills, certificates, specialized training, or interests you have which are applicable to this
board or commission:
Briefly explain what you believe are the three most important issues facing this board or commission, and how do you believe this board or commission should address each issue?

1) Affordable housing is very necessary for seniors. The current housing available are unfortunately above what the seniors can afford. Take a survey of all the seniors that are presently housed in the properties for seniors to get their input regarding there needs.

2) As I stated above their should be more input by tenants in all low income housing regarding their needs and thoughts to be able to better serve the community.

3) I feel that more envious should also be placed on middle income housing also.

Please specify any activities which might create a serious conflict of interest if you should be appointed to this board or commission:

None

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Signature: ________________________________ Date: _________________

Optional: How did you learn of a vacancy on this board or commission:

☐ Newspaper ☐ Cable 14 ☐ City News (Utility Bill Insert) ☐ Website

Other (please specify) ________________________________
APPLICATION FOR BOARD OR COMMISSION MEMBERSHIP

ATTACHMENTS TO APPLICATION MUST BE LIMITED TO TWO PAGES
INCOMPLETE APPLICATIONS WILL NOT BE CONSIDERED FOR APPOINTMENTS

If you have questions or need more information, contact:
City Clerk’s Office (300 LaPorte Avenue) at 970.416.2525

Eligibility Requirements
- 1 year residency within the Fort Collins Growth Management Area

Board or Commission: Affordable Housing Board
Name: Sean Robertson
Mailing Address: ____________________________________________ Zip: __________
Residence: ____________________________________________ Zip: __________
Home Phone: ___________________ Work Phone: ___________________ Cell Phone: _________
E-Mail Address: ____________________________________________

Have you resided in the Fort Collins Growth Management Area for at least one year? ☒Yes ☐No

Which Council District do you live in? District 2

Current Occupation: Product Marketing Manager Employer: ADTRAN

Recent and/or relevant work experience (please include dates) As a product marketing manager at ADTRAN, I am responsible for formulating, developing, and executing detailed marketing plans for our residential internet solutions product line. Working in conjunction with our product and sales teams, I strive to create a conversation that addresses our target market, generates leads, builds brand awareness, and supports our overall objectives.

Recent and/or relevant volunteer experience (please include dates) While in Arizona, I volunteered as a member of The Farm at Agritopia Focus Group. The Farm at Agritopia provides sustainable agriculture for the local and greater Phoenix community, offering meaningful hands-on education for all generations, and building community through food and farming. In volunteering at The Farm at Agritopia, I've been heavily involved in creating a sustainable farming system that's integrated into our communities in perpetuity. Keeping people connected to a place, to food, to land, and to each other. I've redesigned The Farm at Agritopia website, grown CSA memberships 150%, and created incentive programs to reconnect the community in

Are you currently serving on a City board or commission? ☐Yes ☒No

If so, which one?

Why do you want to become a member of this particular board or commission? I want to be a volunteer on the Affordable Housing Board to listen to the perspective of others in the community. I am interested in hearing what residents need to live healthy lives and helping to advocate for a sustainable future.

Have you attended a meeting of the board or commission you are applying to or talked to anyone currently on the board? ☐Yes ☒No

If yes, please share your experience:

List any abilities, skills, certificates, specialized training, or interests you have which are applicable to this board or commission:

In volunteering at The Farm at Agritopia, I was heavily involved in creating a sustainable farming system that's integrated into our communities in perpetuity. Keeping people connected to a place, to food, to land, and to each other. I've redesigned The Farm at Agritopia website, grown CSA memberships 150%, and created incentive programs to reconnect the community in
Briefly explain what you believe are the three most important issues facing this board or commission, and how do you believe this board or commission should address each issue?

1) Fort Collins is a popular area right now and the real estate market for renting and buying is competitive. You have to be aggressive and persistent and to find an affordable place to live. I've spoken to many residents and students who end up touring apartments or houses that are privately owned only to end up making additional accommodations in order to have a chance to live in Fort Collins. Private rental listings need greater control and accountability from the City of Fort Collins.

2) Lack of condos, typically the most affordable entry into homeownership, is driven by a construction defects law that makes it easier for buyers to sue developers. At the same time, homeownership rates have steadily declined, from 70.3 percent in 2010 to 66.27 percent in 2015, according to economic data from the Federal Reserve. The current Housing Laws spooked builders away from condos and into the apartments. Even though the state legislature last year tempered the law, few local builders have returned to the condo market, offering few options for a path to homeownership.

3) Individuals earning $20 an hour could afford $1,040 in month rent without spending more than 30 percent of their income on rent. That would barely be enough for a studio at some of the higher-priced units. The City of Fort Collins can take greater action to increase the opportunities available for all income levels to live equally in Fort Collins.

Please specify any activities which might create a serious conflict of interest if you should be appointed to this board or commission:

None.

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- that I meet the eligibility requirements of the position sought and
- that the information provided in this application is true and correct to the best of my knowledge.

Signature: ___________________________ Date: ________________

Optional: How did you learn of a vacancy on this board or commission:

☐ Newspaper ☐ Cable 14 ☐ City News (Utility Bill Insert) ☐ Website

Other (please specify) ___________________________
Eligibility Requirements  
- 1 year residency within the Fort Collins Growth Management Area

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<th>Affordable Housing Board</th>
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<td>Have you resided in the Fort Collins Growth Management Area for at least one year?</td>
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<td>Which Council District do you live in?</td>
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<td>Current Occupation:</td>
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<td>Employer:</td>
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Recent and/or relevant work experience (please include dates)
- Partnership for Age-Friendly Communities
- Housing Priority group co-chair. 2013 - present. The Housing Priority group has written position papers on Accessory Dwelling Units (for) and Rethinking Housing with older adults in mind. We also just finished a contract for the City interviewing older adults about the relationship between housing and health. We also spearheaded Homeshare which is now being managed by Neighbor to Neighbor. Neighbor to Neighbor board member. 2018 - present.

Are you currently serving on a City board or commission? Yes | No

Why do you want to become a member of this particular board or commission? I believe strongly that housing is tied to health and success. Homeownership is unattainable for many. Renters live in fear of annual rent increases. Mobile home owners live in fear of annual lot rent increases. We need to find a way to fix this.

Have you attended a meeting of the board or commission you are applying to or talked to anyone currently on the board? Yes | No

If yes, please share your experience:
I have had several conversations with board members and staff about the work and makeup of the board. These conversations increased my interest in becoming a member.

List any abilities, skills, certificates, specialized training, or interests you have which are applicable to this board or commission:
Having been working in the housing arena for the last five years with the Partnership for Age-Friendly Communities, I have gained a decent understanding of the issues at hand. I believe in making connections between people working on housing issues and solving these issues as a community. I have spent a good deal of time in the past five years to that end.
Briefly explain what you believe are the three most important issues facing this board or commission, and how do you believe this board or commission should address each issue?

1) Women over 60 are the fastest growing homeless population with men over 60 not far behind. Rents are going up faster than fixed incomes and/or low salaries. The board should encourage the City to incentivize appropriate options in housing including accessible options and consistently affordable rents.

2) Mobile home lot rents are increasing at alarming rates, outpacing resident’s ability to sustain their homes. The board should continue to work to negotiate with mobile home park owners and promote park ownership by residents.

3) Investors own many rentals in town and rent by the room to four, five or six tenants making the houses unaffordable for any family or single person to buy or rent. I used to think that 3 unrelated was the solution. While I still believe that there are useful pieces of that, it is unenforceable and doesn't necessarily control rents. I don't know the answer; we need to keep working on this.

Please specify any activities which might create a serious conflict of interest if you should be appointed to this board or commission:

I own and manage a short term rental, although I don't believe that this is a conflict of interest.

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- that I meet the eligibility requirements of the position sought and
- that the information provided in this application is true and correct to the best of my knowledge.

Signature: ____________________________ Date: __________________

Optional: How did you learn of a vacancy on this board or commission:

- Newspaper
- Cable 14
- City News (Utility Bill Insert)
- Website

Other (please specify) ________________________________
APPLICATION FOR BOARD OR COMMISSION MEMBERSHIP

ATTACHMENTS TO APPLICATION MUST BE LIMITED TO TWO PAGES
INCOMPLETE APPLICATIONS WILL NOT BE CONSIDERED FOR APPOINTMENT

If you have questions or need more information, contact:
City Clerk’s Office (300 LaPorte Avenue) at 970.416.2525

Eligibility Requirements
- 1 year residency within the Fort Collins Growth Management Area

Board or Commission: Affordable Housing Board
Name: Daphne Bear
Mailing Address: ________________________________ Zip: ____________
Residence: ________________________________ Zip: ____________
Home Phone: ____________ Work Phone: ____________ Cell Phone: ____________
E-Mail Address: ________________________________

Have you resided in the Fort Collins Growth Management Area for at least one year? ☒Yes ☐No

Which Council District do you live in? District 3

Current Occupation: Policy Development, Risk Manager
Employer: Fannie Mae

Recent and/or relevant work experience (please include dates)
Develop eligibility standards for the delivery of single family mortgage originations. Develop affordable housing mortgage solutions. Identify and manage credit risk. Draft policy and communicate standards to the housing industry. Development of mortgage products to meet federally mandated duty to serve requirements. Provide policy support for homebuyer education and digital

Recent and/or relevant volunteer experience (please include dates)
8 years on the ZBA, including Vice-Chair; HomeOwner Association, Vice-President; Vice-Chair of the Staff/Parish Relations Committee, FUMC; multi-year volunteer for Faith Family Hospitality; Various city volunteer events.

Are you currently serving on a City board or commission? ☐Yes ☒No
If so, which one? Affordable Housing Board

Why do you want to become a member of this particular board or commission? Through my extensive experience in housing policy, I have knowledge that can advance the mission of the Affordable Housing Board. Professionally and personally, I am committed to finding sustainable solutions to the Affordable Housing dilemma.

Have you attended a meeting of the board or commission you are applying to or talked to anyone currently on the board? ☐Yes ☒No
If yes, please share your experience:

List any abilities, skills, certificates, specialized training, or interests you have which are applicable to this board or commission:
Extensive experience in the development of housing policy, collateral valuation, risk management and mortgage product development...
Briefly explain what you believe are the three most important issues facing this board or commission, and how do you believe this board or commission should address each issue?

1) Financing Solutions. Partner with government agencies/ GSEs to identify affordable solutions and secure favorable financing terms.

2) Stigma of affordable housing. Normalize the need for affordable housing through education and communication of affordable housing solutions.

3) Availability of land. Establish a land trust with resale restrictions to ensure long-term availability of affordable housing.

Please specify any activities which might create a serious conflict of interest if you should be appointed to this board or commission:

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- that the information provided in this application is true and correct to the best of my knowledge.

Signature: ____________________________ Date: _______________

Optional: How did you learn of a vacancy on this board or commission:

☐ Newspaper       ☐ Cable 14       ☐ City News (Utility Bill Insert)       ☐ Website
Other (please specify) ____________________________
APPLICATION FOR BOARD OR COMMISSION MEMBERSHIP

Return completed applications to:
City Clerk's Office, 300 LaPorte Avenue or mail to P.O. Box 580, Fort Collins, CO 80522
If you have questions or need more information, contact the City Clerk's Office at 970.221.6515

Eligibility Requirements: 1 year residency within the Fort Collins Growth Management Area

Name: Allison Jill "AJ" Esser
Mailing Address: ______________________________________ Zip: ________
Residence: ___________________________________________ Zip: ________
(If different than Mailing Address)
Home Phone: ___________________________ Work Phone: ___________________________
E-mail: _________________________________ Yes ☐ No ☐

Have you resided within the Fort Collins Growth Management Area for one year? Which Council District do you live in? ☐

Current Occupation: Attorney, Education Defense  Employer: Colorado Legal Services
Recent and/or relevant work experience (please include dates):
I have worked with low income & vulnerable populations as an attorney in Dependency & Neglect court (June 2019 - May 2020) & as a public defender (April 2013 - December 2018). I am now working for Colorado Legal Services doing eviction defense & community education on housing rights in Weld County.
Recent and/or relevant volunteer experience (please include dates):
In law school I was a member of the community justice clinic & organized a community to advocate for environmental justice. I did outreach & facilitated community meetings.
I have also volunteered to coach high school mock trial teams & at a clinic to assist people applying for social security.

Are you currently serving on a City board or commission? Yes ☐ No ☐ I am ____________
If so, which one? ______________

Why do you want to become a member of this particular board or commission?
I have seen how critical affordable housing is for my clients to be successful. I would like to be more involved in Fort Collins. I believe we are a very accepting community & to partner with local organizations to ensure that affordable housing is available, safe & sustainable. I want people to know how to access it.

Have you attended a meeting of the board or commission you are applying to or talked to anyone currently on the board? Yes ☐ No ☐
If Yes, please share your experience:
I recently attended a city council meeting & enjoyed hearing about different community projects. I liked that there were presentations before votes to provide education. I was impressed by the volunteers for the ad hoc committee to look at policing in the city.

List any abilities, skills, licenses, certifications, specialized training, or interests you have which are applicable to this board or commission:
I have legal training relevant to housing & can help in reading or drafting regulations/documents.
I have training in trauma informed care so I can be patient & sensitive to vulnerable people. Experienced facilitator/meeting me
I am skilled at seeing things from multiple sides.
Briefly explain what you believe are the three most important issues face this board or commission, and how do you believe this board or commission should address each issue?

1) Access to Affordable Housing (especially in light of COVID-19) ensure the city has enough affordable housing to meet the demands of the population and minimize homelessness. Assist in finding funding and working with partners who can develop and maintain affordable housing. Especially in light of COVID-19 and social distancing, need to ensure there is enough housing for low-income population. Ensure people in community know how to access information about where to find affordable housing.

2) Input from People Living in Low Income Housing. Tenants in low income housing should have a voice in identifying issues and creating solutions. Board can do outreach, host community meetings or select leaders in communities to solicit this input. I would anticipate issues with public transportation, over-policing, proper upkeep of homes, landlord transparency, ADA compliance, etc.

3) Protection for Mobile Home Owners. Colorado passed the Mobile Home Park Act in 2019. Many people who live in mobile homes are low income and are taken advantage of. The board can work to ensure that this legislation is tailored to meet the needs of our community. The act grants counties the power to enact ordinances and the board can research what is most needed here.

Please specify any activities which might create a serious conflict of interest if you should be appointed to this board or commission:

None - currently work in Weld County, so there will not be any client overlap. Just cannot represent my work on board as being on behalf of Colorado Legal Services.

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By signing and submitting my application to the City of Fort Collins, I swear or affirm under penalty of perjury pursuant to the laws of the State of Colorado:

# that I meet the eligibility requirements of the position sought and
# that the information provided in this application is true and correct to the best of my knowledge.

Signature: ___________________________ Date: 7/6/20

Optional: How did you learn of a vacancy on this board or commission?

☐ Newspaper  ☐ Cable 14  ☐ City News (Utility Bill Insert)  ☐ Website

Other (please specify) ___________________________
APPLICATION FOR BOARD OR COMMISSION MEMBERSHIP

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If you have questions or need more information, contact:
City Clerk’s Office (300 LaPorte Avenue) at 970.416.2525

Eligibility Requirements
- 1 year residency within the Fort Collins Growth Management Area

Board or Commission: Affordable Housing Board

Name: Blaine Mathisen

Mailing Address: ___________________________ Reside: ___________________________ Zip: __________
Residence: ___________________________ Work Phone: ___________________________ Cell Phone: ___________________________ E-Mail Address: ___________________________

Have you resided in the Fort Collins Growth Management Area for at least one year? ☒ Yes ☐ No

Which Council District do you live in? District 5

Current Occupation: Project Engineer Employer: Northern Engineering

Recent and/or relevant work experience (please include dates)
I am a land development engineer here in Fort Collins (2015-current). I have extensive knowledge on what it takes to development in Fort Collins both for commercial and residential projects. I have worked with city staff to help deliver projects that meet the cities goals and objectives while also meeting our clients needs. I have helped clients secure HUD financing and

Recent and/or relevant volunteer experience (please include dates)
Habitat for Humanity (3 times a year since 2018). Northern Engineering is very involved with Habitat for Humanity (especially the Weld County chapter). When I help I go to the build days where we help build the house/condo. ACE Mentor (2019-current) (https://www.acementor.org). ACE is a program dedicated to helping high school students understand what architecture, engineering, and construction

Are you currently serving on a City board or commission? ☐ Yes ☒ No

If so, which one?

Why do you want to become a member of this particular board or commission? I have worked and volunteered for both Habitat for Humanity and Neighbor to Neighbor. As a young land development engineer in Fort Collins I believe I have a lot of knowledge that could help people who are not as fortunate as me.

Have you attended a meeting of the board or commission you are applying to or talked to anyone currently on the board? ☐ Yes ☒ No

If yes, please share your experience:

List any abilities, skills, certificates, specialized training, or interests you have which are applicable to this board or commission:
Land Development Engineer (EI but will have my PE come October) Went through the Neighbor to Neighbor training I am in th position where I can have a meaningful voice for people who are not as fortunate as me. I have witnessed first hand what a stable home v. unstable home is like. I believe everyone should have the opportunity to make it in this city.
Briefly explain what you believe are the three most important issues facing this board or commission, and how do you believe this board or commission should address each issue?

1) 1. / Provide affordable housing to Fort Collins' working poor; work with developers to integrate affordable units into planned developments  2. / the geographic spread of the Ft Collins area (impact on transport and infrastructure); greater focus on infill, density within the city  3. /

2) 2. / the geographic spread of the Ft Collins area (impact on transport and infrastructure); greater focus on infill, density within the city

3) 3. / Upgrades to some of the city's existing affordable housing. For example, mobile home parks that are in disrepair. Give incentives to the owners of those communities to make improvements.

Please specify any activities which might create a serious conflict of interest if you should be appointed to this board or commission:

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Signature: ____________________________ Date: ____________________

Optional: How did you learn of a vacancy on this board or commission:

- Newspaper
- Cable 14
- City News (Utility Bill Insert)
- Website

Other (please specify) ____________________________
APPLICATION FOR BOARD OR COMMISSION MEMBERSHIP

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If you have questions or need more information, contact:
City Clerk’s Office (300 LaPorte Avenue) at 970.416.2525

Eligibility Requirements
- 1 year residency within the Fort Collins Growth Management Area

Board or Commission: Affordable Housing Board

Name: Ian Johnston

Mailing Address: ____________________________ Zip: ____________________________

Residence: ____________________________ Work Phone: ____________________________

Home Phone: ____________________________ Zip: ____________________________

E-Mail Address: ____________________________ Cell Phone: ____________________________

Have you resided in the Fort Collins Growth Management Area for at least one year? ☒ Yes ☐ No

Which Council District do you live in? District 4

Current Occupation: Realtor / Real Estate Advisor

Employer: NoCo Home Team at C3 Real Estate So

Recent and/or relevant work experience (please include dates) I have worked for nearly 8 years in real estate locally here in Fort Collins. I am a Realtor, but I bring a different skillset and background because I work primarily as a transaction coordinator which means I focus on helping clients from the time they go under contract to the time they close on a property and do not focus as much on sales. This includes inspection/appraisal

Recent and/or relevant volunteer experience (please include dates) I supported a campaign (led by the Homeless Coalition) in opposition to the ‘sit/lie ban’ ordinance (the initial draft broadly criminalized the unhoused, but it was thankfully scaled back before passing). Growing up, I participated in many other volunteer activities around housing affordability with my father who worked for many years for a federal housing non-profit. Frankly,

Are you currently serving on a City board or commission? ☐ Yes ☒ No

If so, which one?

Why do you want to become a member of this particular board or commission? I have been a Realtor in Fort Collins for 8 years as housing affordability issues have become more acute for many. I feel that typical NAR/CAR positions are insufficient to address the problem and more creative and bold policy solutions are needed.

Have you attended a meeting of the board or commission you are applying to or talked to anyone currently on the board? ☐ Yes ☒ No

If yes, please share your experience:

List any abilities, skills, certificates, specialized training, or interests you have which are applicable to this board or commission:

licensed real estate broker, RealtorRelevant interests include policies and viewpoints as articulated in the book and blog ‘Strong Towns’ and the ideas of New Urbanism.
Briefly explain what you believe are the three most important issues facing this board or commission, and how do you believe this board or commission should address each issue?

1) Most urgently - aid/relief for renters facing eviction due to loss of employment or income in connection with the Covid-19 pandemic. This could include legal, mediation, financial or other supportive services designed to help renters (especially those who are immuno-suppressed or ‘at-risk’ for Covid-19) avoid unnecessary evictions and exercise their rights (including new rights and resources provided by recent state legislation like HB19-1118, HB19-1170 and SB19-180). Homeless/unhoused individuals also are in even more dire need of resources and support during this time.

2) Identifying additional sources for affordable housing funding and increasing revenues to expand the availability and impact of existing housing affordability programs administered by the city and potentially add new programs.

3) Identifying and implementing effective interventions in the housing market to increase the availability of affordable housing and encourage housing density where appropriate. Some examples include zoning/use code and policy changes to allow more density in neighborhoods and promote development of ‘missing middle’ (small multi-family housing units - duplexes, triplexes, 4-plexes etc.), loosening restrictions on ADU's and loosening ‘you + 2’ occupancy restrictions.

Please specify any activities which might create a serious conflict of interest if you should be appointed to this board or commission:

I am not aware of any. I have previously attended a few Government Affairs Committee (GAC) meetings for FCBR but do not work with them in an ongoing capacity and frankly have significant differences with many of those on the committee. I am a Realtor and therefore I pay dues to FCBR/CAR/NAR but do not consider

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Signature: ___________________________________________ Date: ________________

Optional: How did you learn of a vacancy on this board or commission:

☐ Newspaper    ☐ Cable 14    ☐ City News (Utility Bill Insert)    ☐ Website
Other (please specify) ____________________________________________
APPLICATION FOR BOARD OR COMMISSION MEMBERSHIP

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City Clerk’s Office (300 LaPorte Avenue) at 970.416.2525

Eligibility Requirements
- 1 year residency within the Fort Collins Growth Management Area

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<th>Landmark Preservation Commission</th>
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<tr>
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Have you resided in the Fort Collins Growth Management Area for at least one year?  ☒ Yes  ☐ No

Which Council District do you live in?  District 4

Current Occupation: Archaeologist  Employer: Ecology & Environment

Recent and/or relevant work experience (please include dates)  Contract archaeology for nearly 20 years.

Recent and/or relevant volunteer experience (please include dates)  Member of CPI, co-chair of education committee for Colorado archaeology, board member of American Cultural Resource Association (ACRA).

Are you currently serving on a City board or commission?  ☐ Yes  ☒ No

If so, which one?

Why do you want to become a member of this particular board or commission? I have been in cultural resource management (contract archaeology) for nearly 20 years. I am a member of CPI, and am interested in historic preservation. I’m the co-chair of the education committee, focused on public archaeology education.

Have you attended a meeting of the board or commission you are applying to or talked to anyone currently on the board?  ☐ Yes  ☒ No

If yes, please share your experience:

List any abilities, skills, certificates, specialized training, or interests you have which are applicable to this board or commission:

Register of Professional Archaeologists (RPA)
Briefly explain what you believe are the three most important issues facing this board or commission, and how do you believe this board or commission should address each issue?

1) Funding - an increased awareness of historic preservation may help bring in funds for historic preservation projects.

2) Public education - most people think 'old places' are cool, but don't have much more education than that. The board can help educate the public through a variety of platforms.

3) Climate change - increasing temperatures and decreasing moisture are taking a toll on historic properties. The board can help ensure properties are maintained and preserved in a responsible manner against these climactic conditions.

Please specify any activities which might create a serious conflict of interest if you should be appointed to this board or commission:

NA

Upon application for and acceptance of appointment, board and commission members demonstrate their intention and ability to attend meetings. If appointed, frequent nonattendance may result in termination of the appointment.

By typing your name in the space provided, I submit my electronic signature and application to the City of Fort Collins and swear or affirm under penalty of perjury pursuant to the laws of the State of Colorado:

- that I meet the eligibility requirements of the position sought and
- that the information provided in this application is true and correct to the best of my knowledge.

Signature: ____________________________ Date: ________________

Optional: How did you learn of a vacancy on this board or commission:

☐ Newspaper ☐ Cable 14 ☐ City News (Utility Bill Insert) ☐ Website

Other (please specify) ____________________________
APPLICATION FOR BOARD OR COMMISSION MEMBERSHIP

ATTACHMENTS TO APPLICATION MUST BE LIMITED TO TWO PAGES
INCOMPLETE APPLICATIONS WILL NOT BE CONSIDERED FOR APPOINTMENTS

If you have questions or need more information, contact:
City Clerk’s Office (300 LaPorte Avenue) at 970.416.2525

Eligibility Requirements

- 1 year residency within the Fort Collins Growth Management Area

Board or Commission: Landmark Preservation Commission

Name: Dani Flores

Mailing Address: __________________________ Zip: ____________
Residence: _______________________________ Zip: ____________
Home Phone: ______________ Work Phone: ______________ Cell Phone: __________________
E-Mail Address: __________________________

Have you resided in the Fort Collins Growth Management Area for at least one year?  ☒ Yes  ☐ No

Which Council District do you live in? Outside City Limits

Current Occupation: Not currently employed. Employer: __________________________

Recent and/or relevant work experience (please include dates)

More than 10 years experience working in human services in workforce development, advocating for individuals with disabilities, seniors, and at-risk populations. I moved to Colorado in 2010 and earned a Masters degree at Regis University in nonprofit management. I have managed volunteers, served and worked with boards and volunteered for various community organizations.

Recent and/or relevant volunteer experience (please include dates)

Sunset Water District, Vice President (2016 - 2020) United Way of Larimer County Grant committee (2014) Gardens on Spring Creek (2015) This is my most recent volunteer work. I have worked with children as a Girl Scout Leader, Softball coach, Soccer Coach and School Volunteer while I raised my children.

Are you currently serving on a City board or commission?  ☐ Yes  ☒ No

If so, which one?

Why do you want to become a member of this particular board or commission?

I have an interest in preservation and would love to learn and participate in how the commission impacts the Fort Collins community. I also have a masters degree in nonprofit management and hope to contribute my skill set.

Have you attended a meeting of the board or commission you are applying to or talked to anyone currently on the board?  ☐ Yes  ☒ No

If yes, please share your experience:

List any abilities, skills, certificates, specialized training, or interests you have which are applicable to this board or commission:

I have an interest in preservation but I do not have experience. However, I have more than twenty years of volunteer, government and nonprofit professional experience that lends itself well to the commission. I have created and implemented programs by collaborating with various stakeholders with diplomacy and integrity. However, I am a direct communicator, honest and...
Briefly explain what you believe are the three most important issues facing this board or commission, and how do you believe this board or commission should address each issue?

1) I do not know how to answer these questions because the Landmarks Preservation Commission has been a best kept secret in the community. Therefore, I believe I could help remedy that issue in a positive way.

2) Due to the pandemic, many organizations are at-risk of funding and/or awareness. I would like to learn how the Landmarks Preservation Commission will address this issue moving forward.

3) I believe the commission has an imbalance of members. Therefore, I would be able to contribute to the group from a nonprofit professionals point of view.

Please specify any activities which might create a serious conflict of interest if you should be appointed to this board or commission:

None.

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- that I meet the eligibility requirements of the position sought and
- that the information provided in this application is true and correct to the best of my knowledge.

Signature: ____________________________________________ Date: __________________

Optional: How did you learn of a vacancy on this board or commission:

☐ Newspaper ☐ Cable 14 ☐ City News (Utility Bill Insert) ☐ Website
Other (please specify) Volunteer Newsletter
APPLICATION FOR BOARD OR COMMISSION MEMBERSHIP

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If you have questions or need more information, contact:
City Clerk’s Office (300 LaPorte Avenue) at 970.416.2525

Eligibility Requirements
- 1 year residency within the Fort Collins Growth Management Area

Board or Commission: Landmark Preservation Commission

Name: Holly Quinones

Mailing Address: ______________________ Zip: __________
Residence: ______________________ Zip: __________
Home Phone: ______ Work Phone: __________ Cell Phone:

E-Mail Address: ______________________

Have you resided in the Fort Collins Growth Management Area for at least one year? ☒Yes ☐No

Which Council District do you live in? District 3

Current Occupation: Program Manager Employer: Iron Mountain

Recent and/or relevant work experience (please include dates) Project Management - EPAM Systems (2013-2020)

Recent and/or relevant volunteer experience (please include dates)

Are you currently serving on a City board or commission? ☐Yes ☒No

If so, which one?

Why do you want to become a member of this particular board or commission? I want to actively support the preservation and enhancement of Fort Collins historic landmarks for the enjoyment of our full community.

Have you attended a meeting of the board or commission you are applying to or talked to anyone currently on the board?

☐Yes ☒No

If yes, please share your experience:

List any abilities, skills, certificates, specialized training, or interests you have which are applicable to this board or commission:

Marketing and communications, project management, content creation, Scrum certified
Briefly explain what you believe are the three most important issues facing this board or commission, and how do you believe this board or commission should address each issue?

1) Balancing growth and development with preservation.

2) Expanding Fort Collins collection of historic properties and landmarks in order to drive tourism and foster community support.

3) Supporting homeowners and commercial landlords who may be interested in historic preservation, and correcting false information/removing roadblocks to encouraging their participation in preservation programs.

Please specify any activities which might create a serious conflict of interest if you should be appointed to this board or commission:

None

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- that I meet the eligibility requirements of the position sought and
- that the information provided in this application is true and correct to the best of my knowledge.

Signature: ____________________________ Date: ______________

Optional: How did you learn of a vacancy on this board or commission:

☐ Newspaper   ☐ Cable 14   ☐ City News (Utility Bill Insert)   ☐ Website

Other (please specify) ____________________________
APPLICATION FOR BOARD OR COMMISSION MEMBERSHIP

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If you have questions or need more information, contact:
City Clerk’s Office (300 LaPorte Avenue) at 970.416.2525

Eligibility Requirements
- 1 year residency within the Fort Collins Growth Management Area

Board or Commission: Landmark Preservation Commission

Name: James Rose

Mailing Address: ____________________________ Zip: __________

Residence: ____________________________ Zip: __________

Home Phone: __________ Work Phone: __________ Cell Phone: __________

E-Mail Address: ____________________________

Have you resided in the Fort Collins Growth Management Area for at least one year? ☒ Yes ☐ No

Which Council District do you live in? District 1

Current Occupation: Retired Employer: NA

Recent and/or relevant work experience (please include dates) My academic research as a university professor and administrator was virtually all related to the preservation of cultural resources. My CV contains numerous publications and research projects, all in preservation and related areas. Until moving to Fort Collins in December of 2017, I served on my former state’s National Register Review Board. I maintain memberships in the National

Recent and/or relevant volunteer experience (please include dates) I served on the Albany County Certified Government board and Cheyenne Historic Preservation board, advocating for preservation, nominating register-eligible projects and providing pro-bono architectural documentation. I served as member and chairman of a local school board, council member and mayor of Laramie, WY, and one term in the Wyoming State Legislature. I’ve been a member of planning commissions in Petaluma, CA and Cheyenne, numerous civic and non-governmental boards and commission

Are you currently serving on a City board or commission? ☐ Yes ☒ No

If so, which one? Landmark Preservation Commission

Why do you want to become a member of this particular board or commission? I am a retired architect and university professor. I directed programs in architectural engineering and a graduate program in historic preservation. I have a lifelong community and professional interest in the preservation of cultural resources.

Have you attended a meeting of the board or commission you are applying to or talked to anyone currently on the board? ☐ Yes ☒ No

If yes, please share your experience:

List any abilities, skills, certificates, specialized training, or interests you have which are applicable to this board or commission:

I am a licensed architect. I received some of my preservation training during my graduate education in architecture at the University of Virginia. I was the US delegate to the International Centre for the Study of the Preservation and Restoration of Cultural Property (ICCROM, a UNESCO agency), where I participated with 23 other delegates to share research and learn
Briefly explain what you believe are the three most important issues facing this board or commission, and how do you believe this board or commission should address each issue?

1) I believe one of the most effective ways to communicate the value and importance of cultural resources is through education. Beginning at the elementary and pre-K level and forward through adulthood, informed people generally make good decisions. And this applies to building awareness and support for the mission of the Landmark Preservation Commission. Helping young people and adults become aware of their built heritage is an ongoing issue as new challenges and opportunities arise. Addressing the issue of how best to educate and inform must be ongoing and involve different strategies.

2) I believe continual work should be done to evaluate the condition of existing landmark resources and periodic reconnaissance to discover new resources. The LPC can be a community resource and liaison from the public with preservation-related concerns and question to City professionals when issues arise. The LPC should continue to develop and broadly disperse clear guidance to assist property owners, businesses and other concerned or interested entities. In addition the LPC should also be a resource available to City officials to provide input and assistance when issues of a preservation arise.

3) Related to Issue 2, the LPC should be at the forefront of advocating for preserving existing buildings and resources as a significant means to reduce carbon emissions and move to a greener Fort Collins. Acknowledging that saving buildings saves energy, reduces waste going to the landfill and reduces material consumption, the Commission should be a vocal advocate for informing everyone of the advantages of preservation.

Please specify any activities which might create a serious conflict of interest if you should be appointed to this board or commission:

I don't believe I have any.

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- that I meet the eligibility requirements of the position sought and
- that the information provided in this application is true and correct to the best of my knowledge.

Signature: ________________________________ Date: ____________________

Optional: How did you learn of a vacancy on this board or commission:

☐ Newspaper        ☐ Cable 14        ☐ City News (Utility Bill Insert)        ☐ Website
Other (please specify) ________________________________
APPLICATION FOR BOARD OR COMMISSION MEMBERSHIP

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City Clerk's Office (300 LaPorte Avenue) at 970.416.2525

Eligibility Requirements
- 1 year residency within the Fort Collins Growth Management Area

Board or Commission: Landmark Preservation Commission
Name: Jonathon Nagel
Mailing Address: ___________________________ Zip: __________
Residence: ___________________________ Zip: __________
Home Phone: _______ Work Phone: ___________ Cell Phone: _______
E-Mail Address: ___________________________

Have you resided in the Fort Collins Growth Management Area for at least one year? ☒Yes ☐No

Which Council District do you live in? District 6

Current Occupation: Real Estate Investor & Landlord Employer: Self-Employed

Recent and/or relevant work experience (please include dates)
As a small local real estate investor and landlord I have experience with the real estate market, lending practices, property management and construction. I have always been passionate about architecture, and fell in love with historic structures when I performed a complete (electrical/plumbing/structural) solo restoration of an 1890 farm house. I learned first hand the challenges (and rewards) associated with the unique construction methods, maintenance and preservation of historic properties.

Recent and/or relevant volunteer experience (please include dates)

Are you currently serving on a City board or commission? ☐ Yes ☒No
If so, which one?

Why do you want to become a member of this particular board or commission? I would love to serve on the LPC to continue the great work that is already being done, and to assist in advancing the continued preservation of our local landmarks helping to maintain Fort Collins unique identity and sense of place that we all love.

Have you attended a meeting of the board or commission you are applying to or talked to anyone currently on the board or commission? ☒Yes ☐No
If yes, please share your experience:
I attended a joint meeting of the energy board and the LPC for a screening of the movie "The Greenest Building" which showcased the intersect of two of my greatest passions; sustainability and historic structures which are not largely associated. I was invited to attend and answer questions about building material preservation and waste and gained great respect for the

List any abilities, skills, certificates, specialized training, or interests you have which are applicable to this board or commission:
As a former City employee I have advanced understanding of City/Land Use/Building codes and development. I received train in environmental regulation, green building, code enforcement, zero waste, and air quality. As a real estate investor I have done extensive construction work including preservation work (lathe and plaster, hardwood, air sealing/insulation,
Briefly explain what you believe are the three most important issues facing this board or commission, and how do you believe this board or commission should address each issue?

1) Previously I was a Sr Sustainability Specialist for the City where my primary focuses was on construction/demolition waste. The largest issue (opportunity) I saw first hand is the demolition of antique, but not historically significant structures. These structures still have value from a sustainability lens and can be more sustainable then a new structure with the embodied energy in their high quality materials and offset waste by avoiding demolition. The LPC needs to explore incentives (expedited permits/fees/rebates/etc.) for repurposing older buildings that are not eligible for designation.

2) There will be times when an older structure needs to be demolished. For these cases the LPC needs to push for increased material salvage and deconstruction in our local amendments to building code. Fort Collins has a relatively small number of historic structures which makes finding used period appropriate building materials especially challenging when restoring a historic structure. By requiring more materials to be salvaged those parts will be able to live on retaining their embodied energy, saving landfill space, and making it easier for other historic restorations to take place.

3) Historically Fort Collins was largely made up of farms and agricultural land and their preservation is essential for retaining our sense of place. Unfortunately preserving these old homesteads can be challenging because their large parcels mean there are less of them and it makes them particularly attractive for development (this will only increase as we expand into the GMA and its more rural areas). While there are good examples of saving these homesteads (Rigden/Jessup) there should be greater protections for them and incentives to continue their usage as farms/single family residences.

Please specify any activities which might create a serious conflict of interest if you should be appointed to this board or commission:

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By typing your name in the space provided, I submit my electronic signature and application to the City of Fort Collins and swear or affirm under penalty of perjury pursuant to the laws of the State of Colorado:

- that I meet the eligibility requirements of the position sought and
- that the information provided in this application is true and correct to the best of my knowledge.

Signature: ________________________________ Date: __________________

Optional: How did you learn of a vacancy on this board or commission:

☐ Newspaper ☐ Cable 14 ☐ City News (Utility Bill Insert) ☐ Website
Other (please specify) City Facebook post
As the son of an architect (my mom) and a custom home builder (my dad) I will bring a lifelong passion of architecture and building to the LPC. As a CSU political science graduate and a former City employee I bring advanced policy understanding and years of experience in reviewing, enforcing, and drafting legal code. As someone who has dedicated the last two years of their life to restoring a historic structure I understand first hand why people love old houses and the challenges in restoring them (spending 100’s of hours removing tar from original hardwoods, driving to Illinois to find a period appropriate kitchen sink, and using modern building science techniques to make them as sustainable as possible). As someone in their mid 20's I understand the disconnect many younger people have to history and an appreciation for the past. I look forward to the opportunity to serve the the Fort Collins community and the Landmark Preservation Commission.  Thanks,  Jonathon Nagel
APPLICATION FOR BOARD OR COMMISSION MEMBERSHIP

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If you have questions or need more information, contact:
City Clerk's Office (300 LaPorte Avenue) at 970.416.2525

Eligibility Requirements
- 1 year residency within the Fort Collins Growth Management Area

Board or Commission: Landmark Preservation Commission

Name: Laura Hicks

Mailing Address: ___________________________ Zip: __________
Residence: ___________________________ Zip: __________

Home Phone: ___________ Work Phone: ___________ Cell Phone: ___________

E-Mail Address: ___________________________

Have you resided in the Fort Collins Growth Management Area for at least one year? ☒ Yes ☐ No

Which Council District do you live in? District 2

Current Occupation: Architect & Instructor Employer: Self & Front Range Community College


Recent and/or relevant volunteer experience (please include dates) Current: Kids' Closet First United Methodist church 2010-2017 Volunteer at Shepardson Elementary School 2012 Shepardson Elementary School Chair of Read-a-thon fundraiser 2013-2104 Shepardson Elementary School Co-president of PTO 2007 Volunteer Discovery Science Museum 2006 Historic Denver - Inspected properties with Easements for compliance/general upkeep

Are you currently serving on a City board or commission? ☐ Yes ☒ No

If so, which one?

Why do you want to become a member of this particular board or commission? I am passionate about Historic Preservation especially in the context of reusing older structures to maintain the character of an area and practice sustainable design. Serving on the LPC is a way to share my passion and support my community.

Have you attended a meeting of the board or commission you are applying to or talked to anyone currently on the board? ☐ Yes ☒ No

If yes, please share your experience:

I have not attended a LPC board meeting or met with a board member although I would like to do this. I saw the notice for applications for the LPC late and did not have time to do either. However, I have brought many high school students from Front Range Community College to tour the FC Planning Department and to meet with Karen McWilliams to learn about careers in the field.

List any abilities, skills, certificates, specialized training, or interests you have which are applicable to this board or commission:

Architect Colorado License No. 400435 LEED AP Homes professional credential Familiarity with Historic Structure Assessment Colorado Historical Society Stephen H. Hart award for the restoration of the Reed Building in Grand Junction, Colorado. Lead Designer and Project Manager
Briefly explain what you believe are the three most important issues facing this board or commission, and how do you believe this board or commission should address each issue?

1) The LPC board is doing a great job. As a board member, I would choose to continue to do the work the present board is doing. One of the issues that any landmark Preservation Commission faces is consistency. If the board decides a project can do something that is slightly different than what is called out in the design guidelines, the board must allow other projects to do the same. Boards must be consistent in what they approve and what they do not approve.

2) The group of buildings 50 years or older now includes buildings built in the 1970s. This is an important issue for the LPC. How will we move forward with new historic districts, new historic designations, and new guidelines for home built in the 1970s? What will we consider worth saving and what will we see altered or demolished? I think we will determine this on a case by case basis.

3) Affordable communities as well as healthy economies are another important issue. How will the decisions made by the LPC affect affordability of housing while promoting healthy economies? Will the board's decisions encourage a healthy economy along with a healthy community? I think the board should support both affordable communities and healthy economies.

Please specify any activities which might create a serious conflict of interest if you should be appointed to this board or commission:

In 2019/early 2020 I worked on the design of an addition for a residence on the 400 block of Mountain Ave. The project is currently on hold until late 2020/2021. They are not applying for historic designation or planning anything unusual with the addition. It may not be a serious conflict.

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By typing your name in the space provided, I submit my electronic signature and application to the City of Fort Collins and swear or affirm under penalty of perjury pursuant to the laws of the State of Colorado:

- that I meet the eligibility requirements of the position sought and
- that the information provided in this application is true and correct to the best of my knowledge.

Signature: ___________________________ Date: ________________

Optional: How did you learn of a vacancy on this board or commission:

☐ Newspaper ☐ Cable 14 ☐ City News (Utility Bill Insert) ☐ Website
Other (please specify) ___________________________
APPLICATION FOR BOARD OR COMMISSION MEMBERSHIP

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City Clerk’s Office (300 LaPorte Avenue) at 970.416.2525

Eligibility Requirements
- 1 year residency within the Fort Collins Growth Management Area

Board or Commission: Human Relations Commission

Name: David Slivken

Mailing Address:------------------------------------------------- Zip:

Residence:------------------------------------------------- Zip:

Home Phone:----------- Work Phone:----------- Cell Phone:

E-Mail Address:--------------------------------

Have you resided in the Fort Collins Growth Management Area for at least one year? ☑ Yes ☐ No

Which Council District do you live in? District 1

Current Occupation: Executive Director Employer: Poudre River Public Library District

Recent and/or relevant work experience (please include dates) Library Director, October, 2016-Current/Poudre LibrariesAssistant Director-Dayton, OH Metro Library, 1997-2016Librarian and Branch Manager-Des Moines, IA Public Library, 1976-1997

Recent and/or relevant volunteer experience (please include dates) Larimer County Juvenile Community Review Board, 2019-current/ Screens requests for the community placement of youth returning to Larimer County from the State Department of Human Services Division of Youth Corrections. Larimer County Workforce Development Board (associate member), 2017-current/ provides employer-led, strategic leadership to assist employers. Dayton Mediation Center,

Are you currently serving on a City board or commission? ☐ Yes ☑ No

If so, which one?

Why do you want to become a member of this particular board or commission? As a long time library administrator, I have years of experience promoting diversity, equity and inclusion in the workplace. I also have many years of experience as a transformative mediator in Dayton, OH and possess the skills to find common

Have you attended a meeting of the board or commission you are applying to or talked to anyone currently on the board? ? ☐ Yes ☑ No

If yes, please share your experience:
I have not, but work with Johanna Ulloa and I am an acquaintance of Myles Crane

List any abilities, skills, certificates, specialized training, or interests you have which are applicable to this board or commission:
Trained transformative mediator (Dayton, OH Mediation Center) 43 years working in public libraries and understand the importance of a community centered institution
Briefly explain what you believe are the three most important issues facing this board or commission, and how do you believe this board or commission should address each issue?

1) Religious bigotry towards Jews and Muslims. Additionally, bigotry towards people of color who lead Christian congregations. It is unacceptable that many congregations in Fort Collins have to hire off duty police during religious services or events. The Human Relations Board has a responsibility to encourage education and to facilitate a community discussion. I understand the perpetrators will not be reached by this, but the community needs to be aware.

2) Being an advocate for immigrants facing prejudice and bias in the community. The HRC should collaborate with diverse community organizations, groups and individuals to build a more diverse community and to recommend changes to areas of systemic inequity. Additionally, the HRC can promote fair employment practices to small businesses through outreach, education, training, and intervention services to foster diverse and inclusionary practices in the workplace.

3) Our fragmented social environment--The HRC can help promote social infrastructure to help fight bigotry, polarization and the unfortunate general decline of civility. Whether partnering with the libraries, CSU, PSD, FRCC, there are avenues to help bring people together.

Please specify any activities which might create a serious conflict of interest if you should be appointed to this board or commission:

Offhand, I cannot think of any

Have you ever been convicted of a crime (except for minor traffic offenses that resulted only in a fine)? ☒ Yes ☐ No

If yes, please explain in complete detail. State the nature and approximate date of the conviction, the sentence imposed, whether the sentence has been completed, and any other information you consider to be relevant.

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By typing your name in the space provided, I submit my electronic signature and application to the City of Fort Collins and swear or affirm under penalty of perjury pursuant to the laws of the State of Colorado:

- that I meet the eligibility requirements of the position sought and
- that the information provided in this application is true and correct to the best of my knowledge.

Signature: ________________________________ Date: ____________________

Optional: How did you learn of a vacancy on this board or commission:

☐ Newspaper ☐ Cable 14 ☐ City News (Utility Bill Insert) ☐ Website

Other (please specify) ____________________________________________
APPLICATION FOR BOARD OR COMMISSION MEMBERSHIP

ATTACHMENTS TO APPLICATION MUST BE LIMITED TO TWO PAGES
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If you have questions or need more information, contact:
City Clerk’s Office (300 LaPorte Avenue) at 970.416.2525

Eligibility Requirements - 1 year residency within the Fort Collins Growth Management Area

Board or Commission: Human Relations Commission

Name: Diana M Houghton

Mailing Address: _______________________________ Zip: __________________

Residence: _______________________________ Zip: __________________

Home Phone: ________________ Work Phone: ___________________ Cell Phone: __________________

E-Mail Address: _______________________________

Have you resided in the Fort Collins Growth Management Area for at least one year? Yes ☑ No ☐

Which Council District do you live in? District 3

Current Occupation: SAHM, PhD student, business owner Employer: Houghton Designs LLC

Recent and/or relevant work experience (please include dates) Masters in psychotherapy and gaining a Ph.D. in Psychology with an emphasis on integrating learning, technology, and psychology. Worked at the VA in post-combat trauma department. Helped clients deal with homelessness/substance abuse.

Recent and/or relevant volunteer experience (please include dates) Volunteer at SAVA (sexual assault victim advocates) on the SART (sexual assault resource team) in PSD. https://savacenter.org/giving/volunteer/

Are you currently serving on a City board or commission? ☐ Yes ☑ No

If so, which one? _______________________________

Why do you want to become a member of this particular board or commission? I feel that civil/human rights is one of the most important issues facing our society today. I want to help the city create safe/respectful relationships with all our citizens, creating inclusivity and communication opportunities.

Have you attended a meeting of the board or commission you are applying to or talked to anyone currently on the board? ☐ Yes ☑ No

If yes, please share your experience:

List any abilities, skills, certificates, specialized training, or interests you have which are applicable to this board or commission:

Masters in Somatic Psychotherapy - practiced counseling for 3 yearsA student attaining a Ph.D. in PsychologySAVA advocateBi-ethnic Latina (father from Honduras, he immigrated to go to university, I lived in Tegucigalpa as a child)
Briefly explain what you believe are the three most important issues facing this board or commission, and how do you believe this board or commission should address each issue?

1) The Latino community is seeing the implicit and explicit effects of racism on a daily basis. The way the federal government is treating those who are seeking asylum, child separation, and the growing humanitarian crisis in Mexico/Guatemala has left many feeling scared and worried about their future. We need to show up as a community that is welcoming and open to the amazing diversity of skills, knowledge, and culture that is Latin American inclusivity. There is trauma being visited upon entire peoples because of our federal government.

2) The causes of homelessness are complex and multivariable, but one of the major contributors is trauma. There is a high percentage of the homeless population that are combat veterans. There are runaway kids who had to endure sexual and physical assault. The street does not do anything to help alleviate trauma, it can add a new dimension to trauma. Mental health, shelter, and dignity are huge factors in helping.

3) Sexual assault and gender violence is a problem that affects everyone, not just those who survive it. We are survivors, family and friends of survivors, and sometimes the perpetrators. The public education and dispelling of myths is of utmost importance in keeping the population safe from something that is preventable if accurate information is readily available and accessible.

Please specify any activities which might create a serious conflict of interest if you should be appointed to this board or commission:

none that I know of

Have you ever been convicted of a crime (except for minor traffic offenses that resulted only in a fine)? ☐ Yes ☒ No
If yes, please explain in complete detail. State the nature and approximate date of the conviction, the sentence imposed, whether the sentence has been completed, and any other information you consider to be relevant

Upon application for and acceptance of appointment, board and commission members demonstrate their intention and ability to attend meetings. If appointed, frequent nonattendance may result in termination of the appointment.

By typing your name in the space provided, I submit my electronic signature and application to the City of Fort Collins and swear or affirm under penalty of perjury pursuant to the laws of the State of Colorado:

- that I meet the eligibility requirements of the position sought and
- that the information provided in this application is true and correct to the best of my knowledge.

Signature: ________________________________ Date: ________________

Optional: How did you learn of a vacancy on this board or commission:

☐ Newspaper ☐ Cable 14 ☐ City News (Utility Bill Insert) ☐ Website
Other (please specify) Moms in diversity facebook page
APPLICATION FOR BOARD OR COMMISSION MEMBERSHIP

ATTACHMENTS TO APPLICATION MUST BE LIMITED TO TWO PAGES
INCOMPLETE APPLICATIONS WILL NOT BE CONSIDERED FOR APPOINTMENTS

If you have questions or need more information, contact:
City Clerk’s Office (300 LaPorte Avenue) at 970.416.2525

Eligibility Requirements
- 1 year residency within the Fort Collins Growth Management Area

Board or Commission: Human Relations Commission

Name: Patrick Dawson

Mailing Address: ________________________________ Zip: ___________
Residence: ________________________________ Zip: ___________
Home Phone: _____ Work Phone: ___________________________ CellPhone: ___________
E-Mail Address: ________________________________

Have you resided in the Fort Collins Growth Management Area for at least one year? ☒Yes ☐ No

Which Council District do you live in? District 6

Current Occupation: Coordinator Employer: Zephyr Hats Inc.

Recent and/or relevant work experience (please include dates)
Collindale Golf Course for 10 seasons.

Recent and/or relevant volunteer experience (please include dates)
Recently honorably discharged from the Colorado National Guard.

Are you currently serving on a City board or commission? ☐ Yes ☒No

If so, which one?

Why do you want to become a member of this particular board or commission? As an immigrant, a minority, and a Veteran of this great city for the past 20 years, I truly believe I can bring in some different perspectives and diversity that the board and the city might be looking for.

Have you attended a meeting of the board or commission you are applying to or talked to anyone currently on the board? ☐ Yes ☒No

If yes, please share your experience:

List any abilities, skills, certificates, specialized training, or interests you have which are applicable to this board or commission:
Briefly explain what you believe are the three most important issues facing this board or commission, and how do you believe this board or commission should address each issue?

1) Lack of diversity in city employment

2) Lack of youth sports, especially in the minority population

3) Lack of Asian representation within city government

Please specify any activities which might create a serious conflict of interest if you should be appointed to this board or commission:

N/A

Have you ever been convicted of a crime (except for minor traffic offenses that resulted only in a fine)? ☐ Yes ☒ No

If yes, please explain in complete detail. State the nature and approximate date of the conviction, the sentence imposed, whether the sentence has been completed, and any other information you consider to be relevant.

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Signature: ____________________________________________ Date: ___________________________

Optional: How did you learn of a vacancy on this board or commission:

☐ Newspaper ☐ Cable 14 ☐ City News (Utility Bill Insert) ☐ Website

Other (please specify) _________________________________________________________________
APPLICATION FOR BOARD OR COMMISSION MEMBERSHIP

ATTACHMENTS TO APPLICATION MUST BE LIMITED TO TWO PAGES
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If you have questions or need more information, contact:
City Clerk’s Office (300 LaPorte Avenue) at 970.416.2525

Eligibility Requirements
- 1 year residency within the Fort Collins Growth Management Area

Board or Commission: Human Relations Commission

Name: Meg Bonahoom

Mailing Address: ________________________________ Zip: ______

Residence ________________________________ Zip: ______

Home Phone: ______ Work Phone: ________________ Cell Phone: ______

E-Mail Address: ________________________________

Have you resided in the Fort Collins Growth Management Area for at least one year? ☒ Yes ☐ No

Which Council District do you live in? District 6

Current Occupation: Field Representative Employer: Dept of Commerce / US Census Bureau

Recent and/or relevant work experience (please include dates)
Apr 2019-current - collect data for Dept of Commerce surveys / Current Population Survey and Survey of Construction talk with households, construction managers, real estate offices, etc to gather information 2009-2016 - Data Analyst / Group Publishing analyze sales and marketing data for sales and marketing departments - determine audiences for promotion purposes financial

Recent and/or relevant volunteer experience (please include dates) 2008?-current - Vendor Coordinator - Northern Colorado Pow-Wow Association (and 1993-2000 or so) help plan annual pow-wow/manage vendor registration/arrangement at pow-wow/collect fees/trouble-shoot/assist treasurer/and more at pow-wow 2018-current - Treasurer - Larimer County Genealogical Society 2016-2018 - President - Rocky Mountain Creative Quilters

Are you currently serving on a City board or commission? ☐ Yes ☒ No

If so, which one?

Why do you want to become a member of this particular board or commission? Diversity and acceptance have been an important part of my life. On my mother's side I have Mexican and Native American ancestry. Promoting unity among peoples and celebrating our beautiful differences goes deep to my core. This is one way to help.

Have you attended a meeting of the board or commission you are applying to or talked to anyone currently on the board? ☐ Yes ☒ No

If yes, please share your experience:

Colleen Conway and Phil Walker are friends of mine. I have attended a board meeting as member of NCIPA when we presented information about our annual pow-wow. And I have attended the Cracking the Code series and really enjoyed the discussions

List any abilities, skills, certificates, specialized training, or interests you have which are applicable to this board or commission:

I have spent much of my life among brown people. It's where my heart is. Because I'm light-skinned, most white people that I'm white which makes me non-threatening to them. Sometimes that can come in handy. ;-) I have a wide variety of interests and experiences which allow me to relate to many different people and establish some sort of useful relationship with them.
Briefly explain what you believe are the three most important issues facing this board or commission, and how do you believe this board or commission should address each issue?

1) Although there is considerable diversity in Fort Collins, the numbers are small and I think the majority ‘white’ population can often be ignorant of other cultures. And sometimes people with no experience beyond the majority culture are uncomfortable with people outside of their experience or they can even feel threatened by someone ‘different’. One way to address this is with education and establishing relationships. For example, at our pow-wow each year we try to make spectators welcome and to educate them about the pow-wow and, to some extent, Native culture.

2) Back to the small numbers of diverse people - we need to find ways to increase this. Fort Collins is a really good place to live and it can be even better with more balance and evidence of cultures beyond the majority white culture. I'm not quite sure how to address this but part of it could be to have more activities based in other cultures. Our annual pow-wow is one event that is now in it's 28th year. Maybe there could be other activities such as Kwanzaa at Christmas time. Maybe more recognition of Muslim holidays.

3) I don't have have much information but I suspect that the LGBTQ community could use help. I did work with a person who changed gender and I feel that must be one of the most difficult things to go through. At the time, one of my employees preferred to call her a 'pervert', something that I had to correct as best I could. The company was very supportive of her choice to change. Again, part of the answer is education. And finding some way to connect people so there can be communication that helps people to find their common ground.

Please specify any activities which might create a serious conflict of interest if you should be appointed to this board or commission:

none that I can think of

Have you ever been convicted of a crime (except for minor traffic offenses that resulted only in a fine)? ☑ Yes ☐ No
If yes, please explain in complete detail. State the nature and approximate date of the conviction, the sentence imposed, whether the sentence has been completed, and any other information you consider to be relevant

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-that I meet the eligibility requirements of the position sought and
- that the information provided in this application is true and correct to the best of my knowledge.

Signature: ____________________________________________ Date: ________________

Optional: How did you learn of a vacancy on this board or commission:

☐ Newspaper  ☐ Cable 14  ☐ City News (Utility Bill Insert)  ☐ Website
Other (please specify) board member

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When I lived in Toledo, I was involved with the Native pow-wows AND the black community and I miss that diversity in my life. Bluntly I really like Fort Collins but it's so darn white. Now and then I start thinking about moving just to live where the diversity is greater. It would be even better to increase the diversity and acceptance in Fort Collins.
APPLICATION FOR BOARD OR COMMISSION MEMBERSHIP

ATTACHMENTS TO APPLICATION MUST BE LIMITED TO TWO PAGES
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If you have questions or need more information, contact:
City Clerk’s Office (300 LaPorte Avenue) at 970.416.2525

Eligibility Requirements
- 1 year residency within the Fort Collins Growth Management Area

Board or Commission: Human Relations Commission
Name: Liliana Powers

Mailing Address: _______________________________ Zip: __________
Residence: _______________________________ Zip: __________

Home Phone: _______________ Work Phone: _______________ Cell Phone: __________
E-Mail Address: _______________________________

Have you resided in the Fort Collins Growth Management Area for at least one year? ☒Yes ☐No
Which Council District do you live in? District 4

Current Occupation: Retired Employer: See Employed in Ca for 45 years

Recent and/or relevant work experience (please include dates) While living in CA, I owned a very successful Real Estate, Property Management and Financial Planning business. I retired in 2011 and have lived in Fort Collins ever since. I am bilingual (English /Spanish) my country of birth is Argentina and I moved to the US in 1969

Recent and/or relevant volunteer experience (please include dates) I have served as Vice President to the Harmony Ridge Home Owners Association for 3 years and also serve as Head of the Architectural Committee for 2 years.

Are you currently serving on a City board or commission? ☐ Yes ☒No

If so, which one?

Why do you want to become a member of this particular board or commission? I am interested in contributing my available time to a cause I believe in

Have you attended a meeting of the board or commission you are applying to or talked to anyone currently on the board? ☐ Yes ☒No

If yes, please share your experience:

I am planning on attending future meetings.

List any abilities, skills, certificates, specialized training, or interests you have which are applicable to this board or commission:

I can relate to people well. My experience in Real Estate and Property management in CA provided me with great information on discrimination in any shape or form
Briefly explain what you believe are the three most important issues facing this board or commission, and how do you believe this board or commission should address each issue?

1) I am not well versed on current issues with this board/commission and would like to get more information and would like to be a contributing factor on decisions taken and recommendations provided

2) I am interested in cooperating in expanding diversity in this commission

3) I am interested in cooperating in discouraging discrimination regardless the form its being handled

Please specify any activities which might create a serious conflict of interest if you should be appointed to this board or commission:

I don't see any conflict of interest as far as I am concerned.

Have you ever been convicted of a crime (except for minor traffic offenses that resulted only in a fine)? ☒ Yes ☐ No

If yes, please explain in complete detail. State the nature and approximate date of the conviction, the sentence imposed, whether the sentence has been completed, and any other information you consider to be relevant

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By typing your name in the space provided, I submit my electronic signature and application to the City of Fort Collins and swear or affirm under penalty of perjury pursuant to the laws of the State of Colorado:

- that I meet the eligibility requirements of the position sought and
- that the information provided in this application is true and correct to the best of my knowledge.

Signature: ________________________________ Date: ________________

Optional: How did you learn of a vacancy on this board or commission:

☐ Newspaper ☐ Cable 14 ☐ City News (Utility Bill Insert) ☐ Website

Other (please specify) ____________________________________________
APPLICATION FOR BOARD OR COMMISSION MEMBERSHIP

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City Clerk’s Office (300 LaPorte Avenue) at 970.416.2525

Eligibility Requirements
- 1 year residency within the Fort Collins Growth Management Area

Board or Commission: Economic Advisory Commission

Name: Nicholas Spezza

Mailing Address: ___________________________________________ Zip: __________
Residence: ___________________________________________ Zip: __________
Home Phone: _____ Work Phone: _____ E-Mail: _______ Cell Phone: _______
Address: ___________________________________________

Have you resided in the Fort Collins Growth Management Area for at least one year? Yes No

Which Council District do you live in? District 5

Current Occupation: Dean of Instruction Employer: Front Range Community College

Recent and/or relevant work experience (please include dates)
I have been involved in economic development, from an education perspective since 1999. In my profession, I work to bring new employment pathways, and career development opportunities into fruition for many occupations. Two such efforts I have recently been leading include the development of an associates degree in Highway Maintenance Management (HWY) and the bringing of the Local Technical Assistance Program to FRCC (also a professional development program supporting incumbent workers in Recent and/or relevant volunteer experience (please include dates)
2000 - 2005 - Co-founded Impact Personal Safety, Santa Fe, NM
2012 - 2013 - Albuquerque Economic Development, Albuquerque, NM
2013 - 2015 - Created statewide models for business curriculum, Houston, TX
2015 - 2017 - Created FAA approved “Drones Up” program for unmanned aerial systems, Homestead, FL
2017 - 2020 - Created an A.A.S in Highway Maintenance Management & oversee the creation

Are you currently serving on a City board or commission? Yes No

If so, which one?

Why do you want to become a member of this particular board or commission? I am interested in economic development from multiple perspectives. I work at Front Range Community College and much of what we do is to help people change their economic conditions. This effort benefits entire families and the community as a whole.

Have you attended a meeting of the board or commission you are applying to or talked to anyone currently on the board? Yes No

If yes, please share your experience:

List any abilities, skills, certificates, specialized training, or interests you have which are applicable to this board or commission:
I have multiple degrees in business including an M.B.A. and Doctorate of Management. I have also been involved with econor development since 1999, in multiple states and cities.
Briefly explain what you believe are the three most important issues facing this board or commission, and how do you believe this board or commission should address each issue?

1) Addressing the disparities between the cost of living and the existing wages in Fort Collins. This has multiple parts including: cost of housing, career pathways, our small business development opportunities and lifestyle issues. Some thoughts for addressing these concerns include: Reviewing our economic landscape for growing jobs that provide livable wagesaligning education and career development opportunities with high wage/high growth careers reviewing what our community values are in terms of career and lifestyle.

2) Transportation Many folks in the NOCO area travel between counties/communities to and from work. The I-25 corridor is also noted as a key support for transportation within and through our community. How are we prepared to develop and maintain our transportation system while engaging new technologies. Autonomous systems are already on the roads, how will these types of technologies change our community members lives and commutes? To address these concerns we need to engage CDOT and Local and municipal leaders in our long term strategic development of our transportation systems.

3) The Pandemic - This issue has everyone reeling. We are still working on what the short and long term impacts will be. Businesses have had to adapt, with some shutting down due to inability to change fast enough. Responses might include: Engaging our small business development resources to support struggling businesses to keep our current businesses Creating incentives to bring new businesses in to FOCOC Communicating opportunities and our strength/weakness profile to search firms looking to place larger businesses.

Please specify any activities which might create a serious conflict of interest if you should be appointed to this board or commission:

N/A

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- that I meet the eligibility requirements of the position sought and
- that the information provided in this application is true and correct to the best of my knowledge.

Signature: __________________________ Date: ________________

Optional: How did you learn of a vacancy on this board or commission:

☐ Newspaper    ☐ Cable 14    ☐ City News (Utility Bill Insert)    ☐ Website
Other (please specify) ______________________________

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APPLICATION FOR BOARD OR COMMISSION MEMBERSHIP

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INCOMPLETE APPLICATIONS WILL NOT BE CONSIDERED FOR APPOINTMENT

If you have questions or need more information, contact:
City Clerk’s Office (300 LaPorte Avenue) at 970.416.2525

Eligibility Requirements
- 1 year residency within the Fort Collins Growth Management Area

Board or Commission: Economic Advisory Commission

Name: Virginia R (Ginger) Adams

Mailing Address: ____________________________ Zip: ______________
Residence: _______________________________ Zip: ______________
Home Phone: __________ Work Phone: ___________ Cell Phone: __________

E-Mail Address: ____________________________

Have you resided in the Fort Collins Growth Management Area for at least one year? Yes ☒ No ☐

Which District do you live in? District ☐

Current Occupation: Professional Facilitator
Employer: Advantage Facilitation Service

Recent and/or relevant work experience (please include dates) Since 2005, I have facilitated various problem-solving and communications workshops since 1988. My clients are typically federal, state, and municipal agencies. Due to COVID-19 I am currently facilitating such workshops online, and look forward to the day in-person sessions can resume so that the team energy/dynamics are returned to the effort. Human interaction

Recent and/or relevant volunteer experience (please include dates) My volunteer experience is limited to membership on Boards of Directors and/or activity related to my profession: SAVE International (www.value-eng.org), 1988-1996 and 2004-2007; Lawrence D. Miles Value Foundation, 1994-1996, and Dean, College of Fellows, 2003-2010; International Association of Facilitators, North American Conference Chair 2011 and 2018, Co-Chair 2013.

Are you currently serving on a City board or commission? Yes ☐ No ☒
If so, which one?

Why do you want to become a member of this particular board or commission?

Have you attended a meeting of the board or commission you are applying to or talked to anyone currently on the board or commission? Yes ☐ No ☒
If yes, please share your experience:

List any abilities, skills, certificates, specialized training, or interests you have which are applicable to this board or commission:

Certified Value Specialist, Certified Professional Facilitator I specialize in neutral, third party facilitation, and in a structured process known as value analysis/value engineering. The function focus to which I've repeatedly referred is a method for completely depersonalizing conversations and getting a group to consensus on what, precisely, needs to be achieved.
Briefly explain what you believe are the three most important issues facing this board or commission, and how do you believe this board or commission should address each issue?

1) Maintaining required services at an optimum level, particularly after pandemic-related losses in revenues. This will require cool heads and impartial thinking, as well as focusing on why the City does what it does (functional requirements). My entire career has been facilitating workshops to help organizations obtain the best value for money spent.

2) Focusing on what functions (I use this term a lot - it's important!) the City is providing and how best to fund those, as opposed to approaching budgeting on a “here’s what we usually do” basis. Some functions are clearly more important than others. Sometimes organizations discover they’re providing some functions that are actually unwanted or unneeded “because that's the way we've always done it.”

3) Providing services that serve all residents equally, regardless of location within the City and/or ethnic or social identity. My responses to Issues 1 and 2 apply here as well.

Please specify any activities which might create a serious conflict of interest if you should be appointed to this board or commission:

I am aware of nothing that would create a conflict of interest. IF we return to some semblance of normalcy in the next several months, meaning IF I am permitted to perform in-person workshops for my clients, the potential exists for me to be traveling when a board meeting is scheduled. This is unpredictable.

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- that the information provided in this application is true and correct to the best of my knowledge.

Signature: ____________________________________________ Date: __________________  

Optional: How did you learn of a vacancy on this board or commission:

☐ Newspaper ☐ Cable 14 ☐ City News (Utility Bill Insert) ☐ Website
Other (please specify) ____________________________________________
APPLICATION FOR BOARD OR COMMISSION MEMBERSHIP

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If you have questions or need more information, contact:
City Clerk’s Office (300 LaPorte Avenue) at 970.416.2525

Eligibility Requirements  
- 1 year residency within the Fort Collins Growth Management Area

Board or Commission: Economic Advisory Commission

Name: Rhett Strom

Mailing Address: ___________________________ Zip: _________

Residence: ___________________________ Zip: _________

Home Phone: _______ Work Phone: ___________________________ Cell Phone: __________

E-Mail Address: ___________________________

Have you resided in the Fort Collins Growth Management Area for at least one year? ☑Yes ☐No

Which Council District do you live in? District 2

Current Occupation: Commercial Real Estate Broker Employer: The Group, Inc.

Recent and/or relevant work experience (please include dates)  
Corporate Litigation Attorney: 2004 - 2013; Commercial Real Estate Broker: 2013 - Present; English and Spanish fluency (spoken and written) employed in both careers.

Recent and/or relevant volunteer experience (please include dates)  
I volunteer at most of The Group, Inc. community events.

Are you currently serving on a City board or commission? ☐Yes ☑No

If so, which one?

Why do you want to become a member of this particular board or commission? Serving the community with a positive, grateful, and reasonable attitude is important to the health of Fort Collins. My experience as an attorney, commercial real estate broker, spouse/father, and dual U.S. and Argentinian citizen might be helpful.

Have you attended a meeting of the board or commission you are applying to or talked to anyone currently on the board? ☐Yes ☑No

If yes, please share your experience:

I have consistently read the Agendas, Minutes, Work Plans, as well as Annual Reports because economics interests me.

List any abilities, skills, certificates, specialized training, or interests you have which are applicable to this board or commission:

J.D. (focused on Administrative Law, and State and Federal Consitutional Law in law school); Licensed attorney who practices law in both state and federal courts; Commercial Real Estate Broker; Full fluency in Spanish and English, raising our children in a Spanish-speaking home.
Briefly explain what you believe are the three most important issues facing this board or commission, and how do you believe this board or commission should address each issue?

1) How do we manage a growing economy and maintain Fort Collins’ high quality of life? A diverse Board that carefully listens to the entire community is probably the best place to start. Then, after thoughtfully deliberating how this policy should be formed, it should be clearly communicated to the relevant representative, board, agency within the City, etc. with time lines. When I left Fort Collins in the mid-1990’s and then returned in 2013 to raise a family, I can see that the community is facing an entirely new set of issues.

2) How do we create more affordable house? The service sector is a large component of our economy, and it seems reasonable that affordable housing is essential not only for the practicality and dignity of having affordable housing, but also for long-term economic health of Fort Collins. Addressing the issue is the same as written above in Issue 1; basically careful listening and thoughtful deliberation.

3) How do we maintain our economy so it is not burdensome on individuals and businesses, but also help facilitate the transition to Green Building Codes? It seems important that the City take the regional lead on this issue, not only for commercial buildings but also larger residential apartment complexes. Addressing the issue is the same as written above in Issue 1; basically careful listening and thoughtful deliberation.

Please specify any activities which might create a serious conflict of interest if you should be appointed to this board or commission:

None.

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-that I meet the eligibility requirements of the position sought and
-that the information provided in this application is true and correct to the best of my knowledge.

Signature: ___________________________________________ Date: _______________________

Optional: How did you learn of a vacancy on this board or commission:

☐ Newspaper  ☐ Cable 14  ☐ City News (Utility Bill Insert)  ☐ Website

Other (please specify) ___________________________________________________________
APPLICATION FOR BOARD OR COMMISSION MEMBERSHIP

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City Clerk's Office (300 LaPorte Avenue) at 970.416.2525

Eligibility Requirements
- 1 year residency within the Fort Collins Growth Management Area

Board or Commission: Economic Advisory Commission
Name: Matthew Dickstein
Mailing Address: ____________________________________________ Phone: ________________________
Residence: ____________________________________________
Home Phone: ________________________ Work Phone: ________________________
E-Mail Address: ________________________

Have you resided in the Fort Collins Growth Management Area for at least one year? ☒Yes ☐No

Which Council District do you live in? District 3

Current Occupation: Recently retired Employer: ________________________
Recent and/or relevant work experience (please include dates) 2004-2020 - CEO - Creative Learning Systems
- Built company from small turn-around to a leader in the field of K-12 STEM education1998-2002 - National Technological
University - CFO & EVP - Managed transition from non-profit to private equity backed growth company1987-1997 -
ELS Language Centers/AIFS, Inc - VP Finance - Led strategic and financial initiatives for publicly-traded diversified

Recent and/or relevant volunteer experience (please include dates) 2018-Present - Board of Directors - Food
Bank of Larimer County2003-2008 - Board of Directors - Rivendell School

Are you currently serving on a City board or commission? ☐Yes ☒No
If so, which one?

Why do you want to become a member of this particular board or commission? I've been a Fort Collins
resident and member of the business community for over 20 years. The city has done an incredible job fostering
economic growth while preserving our unique quality of life. I'm passionate about continuing that effort.

Have you attended a meeting of the board or commission you are applying to or talked to anyone currently on the bo
?
☐Yes ☒No
If yes, please share your experience:

List any abilities, skills, certificates, specialized training, or interests you have which are applicable to this
board or commission:
Extensive experience in business strategy and finance
Briefly explain what you believe are the three most important issues facing this board or commission, and how do you believe this board or commission should address each issue?

1) Recovery from COVID-19 pandemic: The economic impact of the pandemic will last long beyond the current outbreak. Service industry jobs have been hit particularly hard along with related tax revenue. Recovery initiatives will require rapid action on a wide variety of creative economic initiatives.

2) Diversity: What initiatives should Fort Collins consider to foster diversity in our business community? Promotion of minority and women-owned business opportunities should be considered a central element of our economic health.

3) Responsible growth: Fort Collins is a model for responsible growth, successfully balancing economic opportunity with environmental and quality of life concerns. This balance lies at the heart of what makes our city great. It's imperative that City leadership maintain this balance as Fort Collins continues to grow.

Please specify any activities which might create a serious conflict of interest if you should be appointed to this board or commission:

None

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- that I meet the eligibility requirements of the position sought and
- that the information provided in this application is true and correct to the best of my knowledge.

Signature: ___________________________ Date: ________________

Optional: How did you learn of a vacancy on this board or commission:

☐ Newspaper  ☐ Cable 14  ☐ City News (Utility Bill Insert)  ☐ Website
Other (please specify) ___________________________
APPLICATION FOR BOARD OR COMMISSION MEMBERSHIP

Eligibility Requirements - 1 year residency within the Fort Collins Growth Management Area

Board or Commission: Economic Advisory Commission

Name: Julie Stackhouse

Mailing Address: ________________________________ Zip: __________________________
Residence: ________________________________

Home Phone: ______ Work Phone: ______ E-Mail: ______ Zip: __________________________

Address: ________________________________

Cell Phone: ________________________________

Have you resided in the Fort Collins Growth Management Area for at least one year? ☒Yes ☐No

Which Council District do you live in? Outside City Limits

Current Occupation: retired Employer: NA

Recent and/or relevant work experience (please include dates) Feb 2020 - Retired as the Executive Vice President of the Federal Reserve Bank of St. Louis with responsibility for bank examinations, discount window lending, community development, and learning innovation. I was responsible for the supervision of 360 staff members located throughout the country.

Recent and/or relevant volunteer experience (please include dates) Current - Serve on the Board of Directors of Neocova, a financial technology start up. Previous - Served on the national board of National Charity League, Inc., a mother-daughter philanthropic organization. Also served on the Women's Advisory Board of Variety the Children's Charity.

Are you currently serving on a City board or commission? ☒Yes ☐No

If so, which one? Parking Advisory Board

Why do you want to become a member of this particular board or commission? As a recently retired Executive Vice President of the Federal Reserve Bank of St. Louis, I believe I can bring a fresh perspective to the group. In the late 1990s, I also served on the Eagan, MN, Economic Development and Planning Commissions.

Have you attended a meeting of the board or commission you are applying to or talked to anyone currently on the board? ☐Yes ☒No

If yes, please share your experience:

List any abilities, skills, certificates, specialized training, or interests you have which are applicable to this board or commission:

I have previously submitted my vitae when I applied for the Parking Advisory Board. In addition to my strong background in finance with the Federal Reserve, I served on the City of Eagan, MN, Planning Commission, Economic Development Commission, and Arts Council. I was named a St. Louis Business Journal "Most Influential Women in Business" recipient and a Delta Sigma

Packet Pg. 200
Briefly explain what you believe are the three most important issues facing this board or commission, and how do you believe this board or commission should address each issue?

1) The economic fallout of Covid 19. Covid 19's impact on small businesses (especially restaurants and retail) has been significant and likely will not subside until a vaccination is found and released. And even then, retail will remain challenged due to changing consumer retail spending practices. This places special pressure on Old Town merchants. Ideally, the Economic Advisory Commission would work closely with the Chamber of Commerce to fully understand these issues, and to the extent possible, position Fort Collins for the possibility that temporary changes may become permanent.

2) Implications for possible enrollment changes at CSU. CSU is a critical part of the Fort Collins. Foreign enrollment may be affected by Covid 19, and overall, the four-year college enrollment rate has not increased materially since 2010. This competitive environment requires Fort Collins to be viewed as a premier destination by students to promote sustained enrollment. Ideally, the Economic Advisory Commission would partner with CSU to understand what, if anything, would enhance student attraction to Fort Collins.

3) City of Fort Collins budget gap. Addressing a budget gap means slimming non-essential services, enhancing business development or some combination of the two. The Economic Advisory Commission is ideally positioned to assist the City Council in exploring business development alternatives.

Please specify any activities which might create a serious conflict of interest if you should be appointed to this board or commission:

None.

Upon application for and acceptance of appointment, board and commission members demonstrate their intention and ability to attend meetings. If appointed, frequent nonattendance may result in termination of the appointment.

By typing your name in the space provided, I submit my electronic signature and application to the City of Fort Collins and swear or affirm under penalty of perjury pursuant to the laws of the State of Colorado:

- that I meet the eligibility requirements of the position sought and
- that the information provided in this application is true and correct to the best of my knowledge.

Signature: ____________________________ Date: ____________________________

Optional: How did you learn of a vacancy on this board or commission:

- Newspaper
- Cable 14
- City News (Utility Bill Insert)
- Website
- Other (please specify) ____________________________

email from city
APPLICATION FOR BOARD OR COMMISSION MEMBERSHIP

ATTACHMENTS TO APPLICATION MUST BE LIMITED TO TWO PAGES
INCOMPLETE APPLICATIONS WILL NOT BE CONSIDERED FOR APPOINTMENT

If you have questions or need more information, contact:
City Clerk’s Office (300 LaPorte Avenue) at 970.416.2525

Eligibility Requirements
- 1 year residency within the Fort Collins Growth Management Area

Board or Commission: Economic Advisory Commission

Name: Timothy Vavra

Mailing Address: _______________________________ Zip: ____________
Residence: _______________________________ Zip: ____________

Home Phone: ________ Work Phone: ___________ Cell Phone: ____________

E-Mail Address: _______________________________

Have you resided in the Fort Collins Growth Management Area for at least one year? ☒ Yes ☐ No

Which Council District do you live in? District 2

Current Occupation: Student/Looking for Work Employer: Consulting

Recent and/or relevant work experience (please include dates) https://www.linkedin.com/mwlite/in/timothyvavra
https://www.linkedin.com/mwlite/in/timothyvavra

Recent and/or relevant volunteer experience (please include dates) https://www.linkedin.com/mwlite/in/timothyvavra
https://www.linkedin.com/mwlite/in/timothyvavra

Are you currently serving on a City board or commission? ☐ Yes ☒ No

If so, which one?

Why do you want to become a member of this particular board or commission? I view my education and insight as a free resource for this community that has given me so much. I am a recent arrival here in your fair city, having moved here a bit more than a year ago. Having my prior company sold, I’m happy to help.

Have you attended a meeting of the board or commission you are applying to or talked to anyone currently on the bo ☐ Yes ☒ No

If yes, please share your experience:

List any abilities, skills, certificates, specialized training, or interests you have which are applicable to this board or commission:

https://www.linkedin.com/mwlite/in/timothyvavra
Briefly explain what you believe are the three most important issues facing this board or commission, and how do you believe this board or commission should address each issue?

1) On UBI
Good compromise between UBI and welfare state would be income supplementation by the federal government 1:2, 1:3 on a gradient scale; this means, if you make sustenance wages for every dollar you make; no taxes and the government gives you a dollar in addition, or beneath them, you make less than sustenance, you make one dollar, the government gives you 3. This means that the seniors and youth, everyone else similarly unskilled that they are making $10/hr, now is taking home $30-$40/hr. https://medium.com/@ivirorfeo/on-the-reconciliation-of-capitalism-and-socialism-91a3d933cef1?sk=b2b0dd6dc1710d27d785ec43dccf16de

2) On the future
We don't need a revolution, we just need to fix what we have. Working on problems in a stable environment does improve productivity. These are slow moving problems, we just need to start developing and advocating for solutions and compromises now. Capitalism isn't the problem, it's the corruption that is the key issue. A deemphasis on selfish greed, a reemphasis on stewardship is required and can happen; it's happening already. There's a way to turn natural instincts and the pleasure principal to mutual benefit; egoistic altruism, enlightened self interest to cultivate.

3) On Inequality
It's worthwhile to think about how to ensure the transition has as little growing pains as possible. Part of the concession of the left in the mentality that's pervasive will be a consideration of inequality as not inherently problematic. Centralized wealth, natural monopolies, inequalities in abilities, skill, you name it will only continue to insist themselves. It's distilling down the essence of a life well lived and offering that opportunity to everyone that will be paramount to ensure stability and continued progress.

Please specify any activities which might create a serious conflict of interest if you should be appointed to this board or commission:

No conflicts I can think of.

Upon application for and acceptance of appointment, board and commission members demonstrate their intention and ability to attend meetings. If appointed, frequent nonattendance may result in termination of the appointment.

By typing your name in the space provided, I submit my electronic signature and application to the City of Fort Collins and swear or affirm under penalty of perjury pursuant to the laws of the State of Colorado:

- that I meet the eligibility requirements of the position sought and
- that the information provided in this application is true and correct to the best of my knowledge.

Signature: ___________________________ Date: ______________________

Optional: How did you learn of a vacancy on this board or commission:

☐ Newspaper ☐ Cable 14 ☐ City News (Utility Bill Insert) ☐ Website

Other (please specify) ___________________________

https://www.coloradoan.com/
I'm glad to express a bit more about my interests and aims on this economic counsel. Apart from my own advocacy plans working on preparing them for the public conversation, I think that I could bring fresh new perspective, even-handed insights, and promising new initiatives to this city. The systems we already have here in our city are already quite wonderful, and in many ways these recent challenges have been handled so wonderfully by our community; making essentials like medicine, groceries, and transit life savers during this unprecedented circumstance; it's brought me to honest, manly tears to be here during this city's finest hour. I am glad to say that my life was saved several times by the medicine I was able to get, groceries from the services I depend upon, and transit to get critical workers where they need to be. I do have quite a few ideas further I would love to share regarding how we might stimulate economic growth here in Fort Collins, and I would be glad to make benefit of my extensive education, experience, talents, and insights to ensure our community will be flourishing for many generations to come. Since I moved here I was very charmed by the long term thinking I see most visibly represented by the caring taken to the grand old trees this City has taken the care to plant, foster, and care for throughout the decades. I can see that many of the choices made here are the finest on offer, from the zero waste recycling initiative, to how wonderfully our public transit allows out citizens to have access to vital resources. It is clear that investments made by the city and the county are considered with sustainability in mind, and I have studied sustainability both economically and environmentally, bringing some of the finest ideas to fruition with this city as a vanguard, a magnet for innovation and progress. This city was already planned incredibly wonderfully, it's really been instantiated equally wonderfully as well, though there is no harm in trying to make something great even better; if I can help even in small ways, it'll be my honor to. I would be glad to set time aside to discuss with anyone interested. 914 382 6246 ivirorfeo@gmail.com
APPLICATION FOR BOARD OR COMMISSION MEMBERSHIP

ATTACHMENTS TO APPLICATION MUST BE LIMITED TO TWO PAGES
INCOMPLETE APPLICATIONS WILL NOT BE CONSIDERED FOR APPOINTMENT

If you have questions or need more information, contact:
City Clerk’s Office (300 LaPorte Avenue) at 970.416.2525

Eligibility Requirements - 1 year residency within the Fort Collins Growth Management Area

Board or Commission: Economic Advisory Commission

Name: Katie Nixon

Mailing Address: ___________________________________________ Zip: __________

Residence: ___________________________________________ Zip: __________

Home Phone: __________ Work Phone: __________ Cell Phone: __________

E-Mail Address: ____________________________

Have you resided in the Fort Collins Growth Management Area for at least one year?  ☒Yes  ☐No

Which Council District do you live in? District 2

Current Occupation: Physician Relations Representative  Employer: UCHealth

Recent and/or relevant work experience (please include dates) I’ve worked for UCHealth the past 17 years, in a variety of positions. Most recently in physician relations (since 2016). My role is to build relationships with physicians within the community, listen to concerns and ensure follow up.

Recent and/or relevant volunteer experience (please include dates) I recently graduated the Leadership Fort Collins program through the Fort Collins Chamber of Commerce. (Graduation may 2019) I currently serve as a volunteer for the Fort Collins Chamber of Commerce in their annual campaign drive. I also volunteer with organizations such as Relay for Life and the March of Dimes.

Are you currently serving on a City board or commission? ☐Yes  ☒No

If so, which one?

Why do you want to become a member of this particular board or commission? I have a deep love for Fort Collins and the surrounding area and wish to learn, and experience more of what makes us such an amazing place to live. I'm very interested in economics and would like to be able to help impact the local economy.

Have you attended a meeting of the board or commission you are applying to or talked to anyone currently on the board or commission? ☐Yes  ☒No

If yes, please share your experience:

List any abilities, skills, certificates, specialized training, or interests you have which are applicable to this board or commission:

I have my bachelor’s in business from Colorado State University. I am working on my Masters in Healthcare Administration from Colorado State University. I have lived in Larimer County my entire life, am a true proponent of the quality of life we have here in Fort Collins.
Briefly explain what you believe are the three most important issues facing this board or commission, and how do you believe this board or commission should address each issue?

1) I strongly believe that one of the biggest issues Fort Collins is facing is the ability to attract and obtain talent. This community is built on so many strong small business' but with the cost of living, cost of childcare and cost of healthcare, it's extremely hard for these business to recruit the expert talent needed. While a board can not solve this issue, I believe having a diverse group of individuals to provide content, advice and knowledge could make a positive impact on the decisions our local government can make in order to move the mark on this important issue.

2) One of the biggest draws for people to move to this area is the beauty surrounding our city, the natural areas, recreation offered and ability to access these beautiful pieces of Colorado. While I have seen a significant change in the spaces available and open, there are so many more ways we can advertise these spaces, to foster tourism and stimulate the local economy. We have so many best kept secrets here, and while I know many want to keep them to ourselves, the impact tourism could make on our economy would be vast.

3) The cost of living here is a large issue that I am not sure how this board can impact. However having a diverse group of individuals working to solve a common goal is always beneficial. We need more lower income housing options, there are many ways as a community we could work together to get cheaper construction costs, to make housing that is affordable for the middle to lower class.

Please specify any activities which might create a serious conflict of interest if you should be appointed to this board or commission:

No conflicts

Upon application for and acceptance of appointment, board and commission members demonstrate their intention and ability to attend meetings. If appointed, frequent nonattendance may result in termination of the appointment.

By typing your name in the space provided, I submit my electronic signature and application to the City of Fort Col and swear or affirm under penalty of perjury pursuant to the laws of the State of Colorado:

- that I meet the eligibility requirements of the position sought and
- that the information provided in this application is true and correct to the best of my knowledge.

Signature: _____________________________ Date: ________________

Optional: How did you learn of a vacancy on this board or commission:

☐ Newspaper ☐ Cable 14 ☐ City News (Utility Bill Insert) ☐ Website

Other (please specify) ________________________________
WHEREAS, vacancies currently exist on various boards and commissions due to the resignation of previous board members; and

WHEREAS, the City Council desires to make appointments to fill those vacancies on the various boards and commissions.

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

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

Section 2. That the following named persons are hereby appointed to fill vacancies on the boards and commissions hereinafter indicated, with terms to begin immediately and to expire as set forth after each name:

<table>
<thead>
<tr>
<th>Board</th>
<th>Expiration of Term</th>
</tr>
</thead>
<tbody>
<tr>
<td>Affordable Housing Board</td>
<td>December 31, 2020</td>
</tr>
<tr>
<td>Daphne Bear</td>
<td></td>
</tr>
<tr>
<td>Landmark Preservation Commission</td>
<td>December 31, 2020</td>
</tr>
<tr>
<td>Jim Rose</td>
<td></td>
</tr>
<tr>
<td>Human Relations Commission</td>
<td>December 31, 2020</td>
</tr>
<tr>
<td>Patrick Dawson</td>
<td></td>
</tr>
<tr>
<td>Economic Advisory Commission</td>
<td>December 31, 2020</td>
</tr>
<tr>
<td>Julie Stackhouse</td>
<td></td>
</tr>
</tbody>
</table>

Passed and adopted at a regular meeting of the Council of the City of Fort Collins this 1st day of September, A.D. 2020.

__________________________________________
Mayor

ATTEST:

__________________________________________
City Clerk
Emergency Ordinance No. 110, 2020 Suspending Certain Provisions of the City’s Land Use Code to Permit Temporary Use of the Property at 1301 Blue Spruce Drive as a Homeless Shelter.

The purpose of this item is for Council to consider approving an emergency ordinance to allow a temporary overnight shelter at 1301 Blue Spruce Drive. The number of shelter beds available in Fort Collins has been reduced due to the need for social distancing because of COVID-19. While homeless shelters are a permitted use in the Industrial Zone District where this property is located, this would allow the use to occur immediately rather than undergoing the development review process for the proposed change in use. Emergency ordinances are authorized under the Charter in emergency circumstances and require the affirmative vote of at least five (5) members of the Council for passage.

Staff recommends adoption of the Emergency Ordinance.

The State of Colorado issued an Emergency Disaster Declaration related to COVID-19 on March 11, 2020. The Order strongly urged governments to make shelter available to people experiencing homelessness as soon as possible to the maximum extent practical.

The City Manager, as the Director of the City’s Office of Emergency Management, proclaimed a “local emergency” on March 13, 2020 in accordance with City Code. The prevention and management of exposure to COVID-19 and mitigation of related impacts of all kinds continue to require emergency action by the City and continued social distancing to reduce its transmission. Council has extended the City Manager’s proclamation of local emergency.

The City worked collaboratively with service provider agencies to host an emergency 24/7 shelter at the Northside Aztlan Community Center (NACC) beginning March 19, 2020 until June 19, 2020 when the NACC needed to be re-opened for childcare and other public programs. Staff and community partners have searched for another viable location for several months to fill the critical gap of overnight shelter. Because of physical distancing requirements, the local shelters’ capacity is significantly reduced resulting in many nights when there is not enough space for all who may be seeking shelter. Additionally, adequate shelter space that accommodates physical distancing requirements will become increasingly critical as fall and winter weather sets in and individuals are at risk of cold and flu viruses as well as COVID-19.

This emergency ordinance is meant to further the City’s emergency response related to COVID-19 consistent with the State’s order by providing shelter to people experiencing homelessness as soon as possible. The City
is intending to enter into a lease for the property located at 1301 Blue Spruce Drive in Fort Collins owned by the Food Bank for Larimer County, which the City would then sublease to the Fort Collins Rescue Mission to operate as an overnight shelter for people experiencing homelessness from September 2020 through April 2021.

While a homeless shelter is a permitted use under the current zoning for the property (Industrial), the City’s Land Use Code (LUC) requires review by the Planning & Zoning Board and requires development standards that would also be applied to the property as part of the review process.

This emergency ordinance would waive these LUC requirements so that additional shelter for people experiencing homelessness can be provided as quickly as possible. The City Charter authorizes Council to adopt emergency ordinances, which are adopted with one reading by the affirmative vote of at least five (5) members of the Council.

**CITY FINANCIAL IMPACTS**

The City will pay for rent, utilities, bathroom trailer, and security at 1301 Blue Spruce, as well as extended day shelter use at the Murphy Center. This will be approximately $28,000 per month (total of $252,000 over the 9-month lease term). CARES Act funding will be used for Sept - December 2020, and City general fund will be used to pay for January - April 2021.

Fort Collins Rescue Mission will provide staffing needed which will require them to hire 4-5 new staff, all supplies needed, general janitorial & maintenance, as well as continue to provide meals to people experiencing homelessness. Additional collaboration with other service providers is critical including proactive engagement from Outreach Fort Collins, Murphy Center day shelter extension, and continued coordination with Catholic Charities.

**PUBLIC OUTREACH**

The following communications have occurred:

- Press Release August 21, 2020
- Direct communications with:
  - North Fort Collins Business Association
  - City Manager’s Homelessness Advisory Committee
  - Directly involved service providers
  - Community partners and service providers generally involved in homelessness services

Once approved, communications to neighbors and nearby businesses will occur through Nextdoor, mailers, and some direct contact.
WHEREAS, the City of Fort Collins is threatened with serious injury and damage, consisting of widespread human and economic impact caused by the Novel Coronavirus 2019 (COVID-19); and

WHEREAS, on March 13, 2020, in order to undertake emergency measures to protect the life, health, safety and property of the citizens of the City and persons conducting business therein, and to attempt to minimize the loss of human life and the preservation of property, the City Manager, as the Director of the City’s Office of Emergency Management, proclaimed a “local emergency” in accordance with Section 2-671(a)(1) of the City Code and activated the Emergency Operations Plan established pursuant to Section 2-673 of the City Code; and

WHEREAS, the prevention and management of exposure to COVID-19 and mitigation of related impacts of all kinds continue to require emergency action by the City and continued social distancing in order to reduce its transmission; and

WHEREAS, the City Council has, with the adoption of Resolution 2020-030, extended the City Manager’s proclamation of local emergency; and

WHEREAS, the State of Colorado declared its first Emergency Disaster Declaration related to COVID-19 on March 11, 2020; and

WHEREAS, as part of its Sixth Amended Public Health Order dated June 5, 2020, the Colorado Department of Public Health and Environment strongly urges governments to make shelter available to people experiencing homelessness as soon as possible and to the maximum extent practicable; and

WHEREAS, this emergency ordinance is meant to further the City’s emergency response related to COVID-19 consistent with the State’s June 5th order by providing shelter to people experiencing homelessness as soon as possible; and

WHEREAS, because of social distancing requirements there are many nights when local shelter providers do not have enough space to house all those who may be seeking shelter; and

WHEREAS, adequate shelter space that permits social distancing will become increasingly important as fall and winter weather sets in and individuals are at risk from cold and flu viruses as well as COVID-19; and

WHEREAS, the City is intending to enter into a lease for property located at 1301 Blue Spruce Drive in Fort Collins owned by the Food Bank for Larimer County (the “Property”),
which the City would then sublease to the Fort Collins Rescue Mission to operate as an overnight shelter for persons experiencing homelessness from September 2020 through April 2021; and

WHEREAS, while a homeless shelter is a permitted use under the current zoning for the property (Industrial District), the City’s Land Use Code (“LUC”) requires review by the Planning and Zoning Board to permit the use of the Property as a homeless shelter, as such a change in use of the building is considered “development” under LUC Division 5.1.2; and

WHEREAS, LUC Division 4.28(E) sets forth development standards that would also be applied to the Property as part of such a review process; and

WHEREAS, in order to provide additional shelter for persons experiencing homelessness as quickly as possible, the City Council finds it is necessary for public health, safety and welfare, and in the best interests of the City and its residents, to suspend the application of certain requirements of the LUC to the Property for so long as the City is leasing it as a shelter for persons experiencing homelessness; and

WHEREAS, Article II, Section 6 of the City Charter authorizes the Council to adopt emergency ordinances, which shall be finally passed on first reading by the affirmative vote of at least five members of the Council and which shall contain a specific statement of the nature of the emergency.

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

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

Section 2. That, with respect only to the Property and its lease by the City and use by the City’s subtenant as a homeless shelter through April 30, 2021, the City Council hereby suspends the requirements of:

- LUC Division 4.28 regarding development standards and the development review process for use of the property as a homeless shelter;
- LUC Division 2.2 regarding the common development review procedures for development applications; and
- LUC Division 2.4 and 2.5 requiring a project development plan (PDP) and final plan for a proposed homeless shelter on the Property.

Section 3. That all other applicable provisions of the City Code, rules and regulations, including but not limited to health and safety requirements, will continue to apply to the Property.

Section 4. That the City Clerk is hereby directed to cause the publication of this Emergency Ordinance in accordance with the Fort Collins City Charter.
Introduced, considered favorably by at least five (5) members of the Council of the City of Fort Collins and finally passed as an emergency ordinance and ordered published this 1st day of September, 2020.

_____________________________
Mayor

ATTEST:

_____________________________
City Clerk
AGENDA ITEM SUMMARY

City Council

September 1, 2020

STAFF

Jennifer Poznanovic, Project and Revenue Manager
Ryan Malarky, Legal

SUBJECT


EXECUTIVE SUMMARY

The purpose of this item is to discuss the proposed adoption of an Ordinance to require remote sellers to collect and remit City sales tax. The Ordinance is based on a model ordinance prepared by a working group of municipal attorneys and municipal finance staff, coordinated by the Colorado Municipal League (CML). With adoption of the Ordinance, the City Manager will enter into an agreement with the Colorado Department of Revenue to allow such taxpayers to remit tax to the City using the Department’s single point of remittance software.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION

U.S. Supreme Court Decision in South Dakota v. Wayfair, Inc.

Under the City’s sales and use tax ordinances, sales tax is levied on all sales and purchases of tangible personal property and taxable services at retail unless prohibited under the constitution or other law of the United States. In June 2018, the United States Supreme Court decided the case of South Dakota v. Wayfair, Inc., 138 S.Ct. 2080 (2018). South Dakota enacted a statute requiring internet sellers with no physical presence in the state to collect and remit sales tax, which was not allowed under prior Supreme Court rulings. In Wayfair, the Supreme Court overturned its prior rulings that had held that a state may only tax a retailer if that retailer has a physical presence in the state. The Wayfair court held that an out-of-state retailer’s physical presence in the taxing state is not necessary for the state to require the seller to collect and remit its sales tax. Rather, a state could require an out-of-state retailer to collect and remit its sales tax if the retailer has a substantial economic nexus with the state. The Supreme Court approved of South Dakota’s system finding it did not place an unconstitutional burden on interstate commerce, because the system set a threshold amount below which smaller retailers did not have to collect tax, provided a statewide single point of remittance and tax administration, simplified tax rate structures, set other uniform rules, and applied only prospectively after its adoption.

The CML Sales Tax Simplification Committee met in October 2018 and all self-collected home rule municipalities agreed to continue voluntary compliance to keep the municipal sales tax system in the state as simple as possible. Through the Committee’s direction, a group of municipal attorneys and municipal finance staff worked to develop a model ordinance with uniform definitions and requirements. The intent behind the model ordinance is to clarify who can collect and remit taxes along with clarifying the authority given to taxing jurisdictions by the U.S. Supreme Court in the Wayfair case. The stated goal behind the ordinance is uniformity and simplicity so that all municipalities in Colorado can collect tax from online or remote retailers.
Colorado Department of Revenue (DOR) Implementation of Wayfair

In July 2019, State House Bill 19-1240 established an economic nexus for purposes of state sales tax on retail sales made by retailers without a physical presence in Colorado. As of October 2020, HB19-1240 requires marketplace facilitators (a person that operates an online marketplace, such as Amazon) to collect and remit sales tax on behalf of marketplace sellers (a person that sells goods through the online marketplace). While HB19-1240 has set some precedent in Colorado for the collection of sales tax from retailers without physical presence, its requirements do not apply to sales taxes imposed by home rule municipalities, which have their own taxing authority under the Colorado Constitution.

In furtherance of HB19-1240, the Colorado Department of Revenue has developed a software system to allow retailers a single point to remit sales tax. The Department has made the system available for home rule municipalities to collectively provide retailers a system similar to the one operated by South Dakota. The Department collects state and local sales tax from out-of-state retailers for those taxing entities for which it already collects sales tax from in-state retailers. The Department collects for approximately 265 jurisdictions, 150 statutory cities, 24 home rule municipalities and all but two counties.

Colorado Department of Revenue’s Single Point of Remittance Software (SUTS System) & Single GIS System

The Department’s single point of remittance software, including the SUTS System and GIS System, is an option for the numerous self-collecting taxing jurisdictions to align more closely with the South Dakota tax system. Remote sellers with sufficient economic nexus can file and pay tax via the SUTS System to those taxing jurisdictions that have chosen to participate in the system. The SUTS System would be available for any business, not just those whose only contact with the City is economic nexus. Businesses with physical presence could file and remit taxes using the SUTS System. Businesses with physical presence in the City would still need to have a Fort Collins sales tax license. The SUTS System vendor will charge a $17,500 fee to integrate the SUTS System with the City’s current software, but the SUTS System can also be used manually without a fee. The portal is essentially an additional filing option for businesses, meaning businesses could file on paper, using the City’s online system, or via the Department’s SUTS System.

What Are Other Cities Doing?

Staff has had conversations with other municipalities regarding efforts those municipalities may make to require remote sellers to collect and remit tax. Based on City staff’s most recent conversations, the following is a list of municipalities and their possible course of action:

- Denver - Plans to participate, SUTS first and model ordinance later this fall.
- Colorado Springs - SUTS agreement and model ordinance already signed.
- Boulder - Plans to participate, SUTS first and model ordinance later this fall/early 2021.
- Aurora - Marketplace Facilitator adopted, SUTS System and Economic Nexus this fall.
- Golden - SUTS agreement signed, model ordinance later this summer.
- Thornton - Plans to participate, SUTS System first and model ordinance later.
- Centennial - Plans to participate, no use tax, may have issues with economic nexus.

According to the Department and CML, the more home rule municipalities that participate, the more likely it is that the municipal sales tax system in Colorado will align with the South Dakota system approved in Wayfair. As of August 10, 2020, 34% of self-collected home rule municipalities have the SUTS agreement under review, 35% are pending signatures, 28% are on the SUTS System and 3% have a staffing delay.

The Case for Self-Collected Home Rule Municipalities - Why Fort Collins is Not State-Collected

A major benefit for self-collected home rule municipalities is the authority to locally collect sales tax and maintain control of their sales tax base. For example, the State of Colorado has 87 sales and use tax exemptions. Self-collected home rule municipalities typically have broader sales tax bases than the State. Another advantage is more targeted collection and enforcement. Local programs can more thoroughly educate businesses and follow up with auditing where appropriate. The SUTS System and model ordinance are compatible with maintaining home rule self-collecting status.
Top Internet Retailers Licensed in Fort Collins

Nationally, e-commerce represents 11.8%* of total retail sales. Of the top 10 U.S. companies based on percentage of e-commerce sales, five are licensed in Fort Collins (see chart below).

<table>
<thead>
<tr>
<th>Retailer**</th>
<th>Ecommerce Share</th>
<th>Licensed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amazon</td>
<td>49.1%</td>
<td>Yes</td>
</tr>
<tr>
<td>eBay</td>
<td>6.6%</td>
<td>No</td>
</tr>
<tr>
<td>Apple</td>
<td>3.9%</td>
<td>Yes</td>
</tr>
<tr>
<td>Walmart</td>
<td>3.7%</td>
<td>Yes</td>
</tr>
<tr>
<td>The Home Depot</td>
<td>1.5%</td>
<td>Yes</td>
</tr>
<tr>
<td>Best Buy</td>
<td>1.3%</td>
<td>Yes</td>
</tr>
<tr>
<td>QVC Group</td>
<td>1.2%</td>
<td>No</td>
</tr>
<tr>
<td>Macy’s</td>
<td>1.2%</td>
<td>Yes</td>
</tr>
<tr>
<td>Costco</td>
<td>1.2%</td>
<td>No</td>
</tr>
<tr>
<td>Wayfair</td>
<td>1.1%</td>
<td>No</td>
</tr>
</tbody>
</table>

*U.S. Census Quarterly Retail E-Commerce Sales 1st Quarter 2020
**Top 10 US companies based on % of e-commerce sales, eMarketer, July 2018

COVID-19 & e-commerce

During the current pandemic, e-commerce is quickly replacing physical channels. According to “The Quickening” in McKinsey Quarterly 2020, U.S. e-commerce penetration has seen the same growth in three months as the previous ten years of growth.

CITY FINANCIAL IMPACTS

Dollars at Stake

The State estimates $72 million in sales tax revenue in 2020 from retailers having economic nexus and marketplace facilitators.* $72 million is equivalent to 2.1% of estimated State collections in 2020. In Fort Collins, 2.1% is equivalent to $2.5 million. It is important to note that some retailers are already remitting voluntarily in Fort Collins.

Regarding marketplace facilitators, some have turned off collection of local taxes on behalf of sellers, leaving them no way to collect the tax. Also, Amazon has indicated that more than half of the items sold on Amazon are through their third-party marketplace.**

Additional sales tax staffing may be needed due to increased license volume and workload implications of additional revenue. Staff will evaluate further, but current estimates are one full time employee (FTE) or a partial FTE. With the implementation of the SUTS System, the Sales Tax Department will evaluate the need for software integration or implementing a new software system.

*Colorado Legislative Council Staff – Economic & Revenue Forecast December 2019, p.28
**Amazon 2017 Annual Report, Letter to Shareholders

BOARD / COMMISSION RECOMMENDATION

On June 15, 2020, the Council Finance Committee supported bringing an ordinance for Council consideration to require certain remote sellers and marketplace facilitators to collect and remit City sales tax.
ATTACHMENTS

1. Council Finance Committee Minutes (PDF)
2. Sales and Use Tax Software System Report (PDF)
3. Powerpoint Presentation (PDF)
Finance Committee Meeting Minutes  
June 15, 2020  
10 am - noon  
Zoom Meeting

Council Attendees:  Mayor Wade Troxell, Ross Cunniff, Ken Summers

Staff:  Darin Atteberry, Kelly DiMartino, Carrie Daggett, John Duval, Travis Storin, Tyler Marr, Blaine Dunn, Caryn Champine, Dean Klingner, Noelle, Currell, Chad Crager, Kelley Vodden, Lawrence Pollack, Cody Forst, Claire Turney, Dave Lenz, Jo Cech, Zack Mozer, Jennifer Poznanovic, Ryan Malarky, Teresa Roche, Lance Smith, Chris Martinez, Mark Anderson, Christine Macrina, Peggy Streeter, Erik Martin, Carolyn Koontz

Others:  Kevin Jones, Chamber of Commerce

Meeting called to order at 10:08 am

Approval of Minutes from the May 18, 2020 Council Finance Committee Meeting. Ross Cunniff moved for approval of the minutes as presented. Ken Summers seconded the motion. Minutes were approved unanimously.

A. 2020-2021 Budget & Financial Update  
Travis Storin, Interim Chief Financial Officer  
Blaine Dunn, Interim Accounting Director

SUBJECT FOR DISCUSSION:  2020-2021 Budget and Financial Review  
2019 Fund Balance Review

EXECUTIVE SUMMARY  
The purpose of this agenda item is to review:  
• The known financial impacts of the COVID-19 pandemic  
• The projected 2020-2021 financial scenarios  
• Progress against the financial scenarios and remaining shortfall  
• Detailed balances for year-end 2019 reserves

GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED  
• Does the Finance Committee have any questions/input to share regarding staff’s status and timeline?  
• Is the Committee supportive of the process to provide for Council acknowledgement of the 2020 budget cuts?  
• Are there questions on the approach to 2021 reduction offers?
BACKGROUND/DISCUSSION
May Tax Collections
As discussed with Finance Committee early in the pandemic, staff anticipates that the general economic impacts of the COVID-19 pandemic to have a severe impact to City revenues. While those impacts are still difficult to quantify, May financial results represented the first full month’s data point for gaining this understanding. The below table summarizes May sales and use tax (collections in May on April taxable sales):

MAY SUMMARY OVER PRIOR YEAR

<table>
<thead>
<tr>
<th></th>
<th>Month</th>
<th>Year to Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net Sales Tax Collected</td>
<td>-23.2%</td>
<td>-3.7%</td>
</tr>
<tr>
<td>Net Use Tax Collected</td>
<td>-27.5%</td>
<td>-21.0%</td>
</tr>
<tr>
<td>Net Sales and Use Tax Collected</td>
<td>-23.9%</td>
<td>-6.5%</td>
</tr>
</tbody>
</table>

Year to date, sales and use tax collections excluding rebates are down 6.5% and total $53.7M.

MAY SUMMARY OVER BUDGET

<table>
<thead>
<tr>
<th></th>
<th>Month</th>
<th>Year to Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net Sales Tax Collected</td>
<td>-23.3%</td>
<td>-4.9%</td>
</tr>
<tr>
<td>Net Use Tax Collected</td>
<td>-30.2%</td>
<td>-10.8%</td>
</tr>
<tr>
<td>Net Sales and Use Tax Collected</td>
<td>-24.4%</td>
<td>-5.7%</td>
</tr>
</tbody>
</table>

Year to date, the City has collected 5.7% less sales and use tax revenue, totaling $3.3M under budget. Given that the stay-at-home orders and general economic halt took hold in mid-to-late March, a 23.9% contraction of sales/use tax collections in April indicates a potential low point of the initial economic shock.

Current shortfall projections
As part of the Analysis & Forecasting workstream, staff has developed a revenue forecasting model that allows for individual risk adjustment of approximately 200 different revenue streams across multiple scenarios. The below table represents the four scenarios staff has developed:

<table>
<thead>
<tr>
<th>Item</th>
<th>Scenario A</th>
<th>Scenario B</th>
<th>Scenario C</th>
<th>Scenario D</th>
</tr>
</thead>
<tbody>
<tr>
<td>2Q Economic Downturn</td>
<td>(15%)</td>
<td>(17.5%)</td>
<td>(20%)</td>
<td>(25%)</td>
</tr>
<tr>
<td>Downturn months</td>
<td>3</td>
<td>3</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>Recovery months</td>
<td>3</td>
<td>4</td>
<td>8</td>
<td>9</td>
</tr>
<tr>
<td>Recovery level (% of base)</td>
<td>97.5%</td>
<td>95%</td>
<td>92.5%</td>
<td>90%</td>
</tr>
<tr>
<td>Sales Tax 2020 (% change)</td>
<td>(9%)</td>
<td>(10%)</td>
<td>(12%)</td>
<td>(16%)</td>
</tr>
<tr>
<td>Use Tax 2020 (% change)</td>
<td>(13%)</td>
<td>(15%)</td>
<td>(19%)</td>
<td>(24%)</td>
</tr>
<tr>
<td>2020 Revenue Shortfall</td>
<td>($22 M)</td>
<td>($27 M)</td>
<td>($32 M)</td>
<td>($41 M)</td>
</tr>
<tr>
<td>2021 Revenue Shortfall</td>
<td>($8 M)</td>
<td>($14 M)</td>
<td>($19 M)</td>
<td>($30 M)</td>
</tr>
</tbody>
</table>
These figures represent an improvement over the April 22\textsuperscript{nd} model’s output for 2020, although the ongoing 2021 revenue shortfall remains very similar. This model also does not currently account for a resurged COVID-19 outbreak in late Q3 and into Q4.

Considering continued uncertainty, staff is maintaining that all four scenarios are possible, however scenario A is increasingly unlikely. The Q2 downturn would indicate we are more likely moving toward Scenario C or D.

Use of reserves
Industry best practices are heavily focused on prescriptive or formulaic maintenance of minimum reserve balances. However, those best practices are generally silent on advising use of those reserves. As a result, staff has established a set of judgmental operating principles. The three possible reserve options are:

- Match staff-identified budget cuts
- Backfill our one-time losses vs. the ongoing shortfall
- Backfill the 3-month deficit experienced during Q2 from reserves; balance the 2020 budget for July-December.

For each option, it is a core operating principle to draw only an amount that can be reasonably repaid within a 3-5-year window starting in 2022.

2020 Scenario Progress
In the weeks since this work has begun, staff has identified $19M in backfill for the 2020 shortfall prior to the use of reserves. Scenario C would indicate a remaining gap of $3M+, and Scenario D would indicate a remaining gap of $7-$12M depending on the amount of reserves used.

Staff is transitioning its efforts toward budget adjustments that may have a service level or program impact. The remainder of May and June will be spent on establishing a portfolio of options that over-solve for the gap by a multiple of 2.5-3x, so that multiple options/configurations can be considered in how to make up the remaining gaps.

Next steps
The trigger points for executing on budget cuts with a significant impact to services, employees, or the community are in June. In the meantime, staff is carefully putting together its contingency plan for each of the four scenarios. The Budget Lead Team is meeting for 2-hour work sessions throughout June and July. The objective is to present a balanced 2020 by June 30 and a balanced 2021 by July 31. From July forward, the process will closely resemble previous years in how the City Manager’s Recommended Budget is created, and the Council-adopted budget is considered.
DISCUSSION / NEXT STEPS;

GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED

- Does the Finance Committee have any questions/input to share regarding staff’s status and timeline?
- Is the Committee supportive of the process to provide for Council acknowledgement of the 2020 budget cuts?
- Are there questions on the approach to 2021 reduction offers?

$22 - 41M current range for shortfall
2021 proving to be rather inelastic in our modeling - $19M ongoing shortfall

Dave Lenz; function of recovery level - that is why 2021 numbers are stickier

Ken Summers; the downturn months – is that April /May / June?

Travis Storin; Sales & Use Tax runs a month in arrears - April / May / June - correct

Ken Summers; are you factoring in restaurants and businesses that are functioning at a percentage of their capacity?

Dave Lenz; it is factored in and that is why we are seeing some improvement - by shortening the downturn - the recovery starts sooner

Ken Summers; real factor is - if you get a basis of what the sales tax revenue is for restaurants – I guess we don’t really know when that will change - sales tax for restaurants at 50% sets a new bar – seasonality of new outdoor dining space

Dave Lenz; CSU Team helping us with modeling - shorter term impacts / long term unemployment - A lot of uncertainty - one of the things – W curve – if relapse – second dip – also, stimulus checks in April – not sure when that spending took / will take place - factor

Ross Cunniff; there is a bit of upside potential here if future economic stimulus can be effective – we should not plan for it, but we should certainly advocate for it

Mayor Troxell; CSU student impact - a few hundred students here for summer versus normal student population of 32K - thinking of fall - CSU is not going to do furloughs and layoffs - they are financing the future now and that will have a positive impact on our community due to employment base

Dave Lenz; usually summer tourist spending makes up for some of that shortfall – lodging component – vacancy rates – professors from CSU are looking at that – less out of state? International students? Loss of students for the summer – what happens when they come back

Travis Storin; CSU is refinancing much of their debt at a lower interest rate. We are grateful for the partnership with the CSU business school team support – national trending and media. Risks of a W shaped model - velocity of information in that each month these numbers will shift – what did we tell you before – what are we telling you now – level of cuts we have identified -
Governor’s office allocated $30.6M to Larimer County for CARES - we are involved in discussions regarding how best to allocate - this is for direct recovery
Looking at a remaining gap of $3-11M – we have set June 30th as the date to close the remaining 2020 gap.
We will give an update on community engagement strategy at the July 20th Council Finance Committee meeting.
Solving to 15% will allow us multiple menus of options to present to Council - reality is approximately 7%

Ken Summers; what are the General Fund reserves would be available without re prioritizing (slide 26)

Travis Storin; $10.6M far right side - available for nearly any purpose - almost immediately accessible

Ross Cunniff; will we be adjusting that based on budget cuts?

Travis Storin; the policy is based on most recent fiscal year expenses - we would be required to have lesser reserves, but you may decide as policy makers to keep it at the higher amount.

Ross Cunniff; wondering if we would want to consider some policy adjustments in that regard

Ken Summers; if we use $10-15M reserves for 2020 - what does that leave us for 2021?

Travis Storin; to provide you that information clearly - we will include fund draws by year in the July 20th Council Finance update  if we were to draw $10-15M in 2020 we would still have access to reserves in 2021.

Ken Summers; given the scenario we are in - in terms of recovery, my inclination would be to use more than less Moving forward – good time for us to establish a reserve policy - if TABOR is $7.1M and then we have another $10M available – how does that factor into – what number is 3 months of General Fund operating expenses – if what we have now what we should always have going forward or -

Darin Atteberry; Ken, you have been very consistent from day 1 of Covid. At our next conversation, if reserves are going to be part of the strategy – we need to dig in. I think we need to be very intentional about specific reserves and how we are going to use those. The range of $10-20M makes a huge difference in reductions that need to take place. That level of detail is appropriate - reserve by reserve - it is not a rainy day - it is a hurricane - we need to spend more time at the reserve fund level and we need to have these conversations soon.

Travis Storin; (referred back to slide 12) I agree and I would see us laying it out fund by fund for 2020 and 2021; 1) the shortfall, 2) budget cuts to date, 3) available reserves, 4) recommended use of those reserves – expanded out to a matrix – the altitude that we have been solving this - operating with the knowledge that moving to late June and July we will be at a more granular level of detail.

Darin Atteberry; thinking about replenishing those reserves and future uses that were planned. Some may be good to look at 4-5 years - may be a separate layer. As Council is contemplating use of those reserves.

Travis Storin; We can be ready to have these conversations within the next couple of weeks. We would need Council approval in order to tap the $7.1M TABOR reserves.

Blaine Dunn presented the Fund Balance portion of the presentation (starting with slide #20)
We generally bring this information to Council Finance annually after the audit is finalized. Different cadence this year - note that the audit is not finalized, and the General Fund is the only fund with an unassigned balance.

Mayor Troxell; a lot of good information and good thought – appreciate all of the work.

Ross Cunniff; I wanted to let you know that the other Council members are welcome to attend our Council Finance Committee meetings if they want to. The first work session for 2021 is September 8th.

Darin Atteberry; I am having 1:1 conversations with Council members and we are meeting with the other non-Council Finance Committee Council members on a regular basis to message consistently.

B. Impacts of Wayfair Court Decision / Opportunities to City
   Jennifer Poznanovic, Sr. Project & Revenue Manager

SUBJECT FOR DISCUSSION
Impacts of the U.S. Supreme Court’s Wayfair Decision and City Collection of Sales Tax from Remote Sellers

EXECUTIVE SUMMARY
The purpose of this item is to provide an update on impacts from the U.S. Supreme Court’s South Dakota v. Wayfair, Inc. decision (June 2018) since the last update to Council Finance Committee in November 2018. In that case, the Supreme Court overruled its prior holdings that a state may only tax a retailer if that retailer has a physical presence in the state. The Wayfair court held that a state can require an out-of-state retailer to collect tax so long as that retailer has a “substantial nexus” connecting it to the state. The Supreme Court approved the system administered by South Dakota, which set thresholds above which a retailer had to collect tax, provided a statewide single point of remittance, and applied only prospectively after its adoption.

The Colorado Municipal League (CML) Sales Tax Simplification Committee met in October 2018 and all self-collected home rule cities agreed to move forward with voluntary compliance to keep the sales tax system as simple as possible, in an effort to align with the system the Supreme Court approved in Wayfair. Per CML, if all 72 self-collecting home rule cities were to implement their own collection from out-of-state retailers, it would likely cause a challenge under the Wayfair case because the varied tax requirements would arguably result in an undue burden to those retailers in violation of the U.S. Constitution.

State House Bill 19-1240 established at the State level the parameters for what constitutes sufficient “economic nexus” to require retailers without a physical presence in the State to collect and remit sales tax. The bill also established requirements from when marketplace facilitators (like Amazon or Walmart) are required to collect and remit sales tax on behalf of third-party sellers. These requirements do not extend to home rule municipalities. The State’s single point of remittance software is an option for taxing jurisdictions to collectively provide retailers a system similar to the one South Dakota had, which the U.S. Supreme Court looked upon favorably in the Wayfair case. Collective participation in such a system may reduce the risk of a constitutional challenge. If self-collected home rule municipalities move away from accepting voluntary compliance from retailers and towards mandating that remote sellers collect tax, the planned approach is to require such collection only from remote sellers that have economic nexus in the municipalities. CML and the Sales Tax Simplification Committee has crafted a model ordinance, which has language defining economic nexus and marketplace facilitators, and creating a legal structure governing the collection and remittance of tax from remote sellers.
GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED
Does Council Finance Committee support legal review of the State’s single point of remittance software and model ordinance as the next step?

BACKGROUND/DISCUSSION
Wayfair Decision, June 2018
In the Wayfair case, the U.S. Supreme Court held that South Dakota could impose a sales tax filing obligation on any remote seller who had a substantial nexus with the state, and that a physical presence was no longer necessary. Prior to the Wayfair case, the Supreme Court had held that a taxing jurisdiction could not require a retailer to collect sales tax unless the retailer had a physical presence in the jurisdiction. The Supreme Court upheld South Dakota’s determination that a retailer without a physical presence has a substantial enough nexus to require sales tax collection when the retailer has annual sales of at least $100,000 or has 200 separate sales transactions of any amount. The Supreme Court looked favorably on South Dakota’s law for several reasons. South Dakota’s law created a threshold for sales, which protected smaller sellers. South Dakota is also a member of the Streamlined Sales & Use Tax Agreement, providing online retailers some simplification in complying with the requirement. Also, the law was not applied retroactively, but instead only for future transactions after the passage of the requirement.

Colorado Department of Revenue (DOR) Implementation of Wayfair
In July 2019, State House Bill 19-1240 established economic nexus for purposes of retail sales made by retailers without physical presence. The bill also codified destination sourcing, and as of October, requires marketplace facilitators to collect and remit sales tax on behalf of marketplace sellers. A marketplace facilitator is an individual or legal entity that operates a marketplace (i.e. Amazon, Etsy). A marketplace seller is someone who sells good through a marketplace facilitator.

The State collects state and local sales tax from out-of-state retailers for any taxing entities for which it already collects in-state sales tax. The DOR collects for approximately 265 jurisdictions, 150 statutory cities, 24 home rule municipalities and all but two counties.

Self-Collecting Home Rule Municipalities and Wayfair
Fort Collins is one of 72 self-collecting home rule municipalities. Under the Colorado Constitution, home rule municipalities have autonomy over their sales tax with their own separate registration, licensing, forms, auditors, and tax base. In other words, home rule municipalities are like separate taxing jurisdictions within the State of Colorado.

The CML Sales Tax Simplification Committee met in October 2018 and all staff representatives from self-collected home rule cities agreed to move forward with voluntary compliance. South Dakota had three key characteristics that the Supreme Court looked upon favorably in upholding South Dakota’s taxing requirement: (1) a threshold limit; (2) a ban on applying the requirements retroactively; and (3) a single tax administration system. It is CML’s position that, if all 72 self-collecting home rule municipalities were to implement their own mandatory collection from out-of-state retailers, it would increase the risk of a retailer challenging such collection as being contrary to the Wayfair case, and therefore, unconstitutional.

DOR’s Single Point of Remittance Software (SUTS System) & Single GIS System
The DOR’s single point of remittance software, including the SUTS System and GIS System, is an option for the numerous self-collecting jurisdictions to align with what South Dakota did in an effort to reduce the risk of a constitutional challenge. Remote sellers with sufficient economic nexus can file and pay via the SUTS System.
The SUTS System would be available for any business, not just those whose only contact with the City is economic nexus. Businesses with physical presence could file and remit taxes using the SUTS System. Businesses with physical presence in the City would still need to have a Fort Collins sales tax license. The SUTS System vendor will charge a $17,500 fee to integrate the SUTS System with the City’s current software, but the SUTS System can also be used manually without a fee. The portal is essentially an additional filing option for businesses, meaning businesses could file on paper, using the City’s online system, or via the DOR’s SUTS System.

**CML’s Model Ordinance**

CML has consulted with municipal attorneys and finance staff regarding the drafting of a model ordinance to establish a uniform system across the numerous municipalities. The ordinance establishes a definition for economic nexus, which would identify who is taxed and who is compelled to collect the tax. This definition of the economic nexus relates to the City’s definition of engaged in business. The ordinance also defines what a marketplace facilitator is and would also identify who collects the tax. This definition relates to the City’s definition of a retailer. CML is suggesting that municipalities adopt the model ordinance if municipalities decide to move away from relying on retailers’ voluntary compliance and instead mandate collection by remote sellers that only have economic nexus. CML recommends this is for municipalities that are going to use the DOR single point of remittance software, with the intent of creating uniformity in the State.

**What Are Other Cities Doing?**

- Boulder – too soon and too much risk
- Aurora – ordinance at Council, ready to move ahead
- Golden – plans to participate, SUTS System first as admin decision, model ordinance this summer
- Thornton – plans to participate, SUTS System first and model ordinance later
- Centennial – plans to participate, no use tax, may have issues with economic nexus

According to DOR and CML, most home rule cities need to participate to keep the sales tax system as simple as possible to most closely align with the South Dakota system approved in *Wayfair*. DOR representatives have stated to City staff that it is critical for larger home rule municipalities, like Fort Collins, to join.

**The Case for Self-Collected Home Rule Municipalities - Why Fort Collins is Not State-Collected**

A major benefit for self-collected home rule municipalities is the authority to “locally collect” sales tax and maintain control of their sales tax base. For example, the State has 87 sales and use tax exemptions. Self-collected home rule municipalities typically have broader sales tax bases than the State. Another advantage is more targeted collection and enforcement. Local programs can more thoroughly educate businesses and follow up with auditing where appropriate. The SUTS System and model ordinance are compatible with maintaining home rule self-collecting status.

**Top Internet Retailers Licensed in Fort Collins**

Nationally, e-commerce represents 11.8%* of total retail sales. Of the top 10 U.S. companies based on percentage of e-commerce sales, five are licensed in Fort Collins (see chart below).
### Dollars at Stake

The State estimates $72 million in sales tax revenue in 2020 from retailers having economic nexus and marketplace facilitators*. $72 million is equivalent to 2.1% of estimated State collections in 2020. In Fort Collins, 2.1% is equivalent to $2.5 million. It is important to note that some retailers are already remitting voluntarily in Fort Collins.

Regarding marketplace facilitators, some have turned off collection of local taxes on behalf of sellers, leaving them no way to collect the tax. Also, Amazon has indicated that more than half of the items sold on Amazon are through their third-party marketplace**.

*Colorado Legislative Council Staff – Economic & Revenue Forecast December 2019, p.28
**Amazon 2017 Annual Report, Letter to Shareholders

### Options

1. Continue voluntary compliance (current state)
2. Pursue SUTS System and model ordinance (staff recommendation)
   - City stays self-collected
   - Voluntary compliance becomes mandatory
   - Additional filing option for businesses

### DISCUSSION / NEXT STEPS;

### GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED

Does Council Finance Committee support legal review of the State’s single point of remittance software and model ordinance as the next step?

$17.5K fee for SUTS system software integration (on slide 8) would need to be paid by city of Fort Collins

Mayor Troxell; does that include the personnel time to integrate it?

---

### Retailer** | Ecommerce Share | Licensed
--- | --- | ---
Amazon | 49.1% | Yes
eBay | 6.6% | No
Apple | 3.9% | No
Walmart | 3.7% | Yes
The Home Depot | 1.5% | Yes
Best Buy | 1.3% | Yes
QVC Group | 1.2% | No
Macy’s | 1.2% | Yes
Costco | 1.2% | No
Wayfair | 1.1% | No

*U.S. Census Quarterly Retail E-Commerce Sales 1st Quarter 2020
**Top 10 US companies based on % of e-commerce sales, eMarketer, July 2018
Jennifer Poznanovic: software we use is MS Govern - Arvada also uses MS Govern and they were quoted $60K for integration.

Mayor Troxell: Wyoming collects at the state level – the tendency to redistribute sales tax funds between cities for various reasons at various times - how do you plan as a city when that revenue arbitrarily moves around? We are fortunate to be self-collected.

Jennifer Poznanovic: CML is engaging legal teams across the front range home rule cities and they have been participating in these conversations and helping with the model ordinance language and reviewing documentation with providers.

Mayor Troxell: I really appreciate the CML and it is for all of the right reasons we are trying to make the Wayfair example operational and I really appreciate city staff’s participation in that.

Mayor Troxell: I am supportive of the staff recommendation – we have been involved with this when it was at the NLC level with regards to Main Street fairness to the Wayfair decision to working with CML. Jennifer, you did a great job outlining the recommendations and what is going on behind the scenes. Thank you

Ken Summers: staff recommendation seems to make sense – from implementation costs to maintain our self-collected status.

Ross Cunniff: I would like to know more about the ordinance. Would this make it more difficult for future Councils if they wanted to consider a tax on out of state services – would that constrain any of this?

Jennifer Poznanovic: I would want to consult with legal on that.

Ross Cunniff: a follow up memo would be fine

Mayor Troxell: in South Dakota where the Wayfair decision took place it is only at the state level – so when you look at Colorado and how we operate and it is much more complex as it relates to this type of decision. How do you self-collect and so forth.

Darin Atteberry: I have been briefed on this prior to this meeting. Travis and Jennifer have done great work, and this is a solid recommendation and I am supportive of the direction.

Mayor Troxell: Ross Cunniff’s question is a good one with regards to ordinance language and there might be unintended consequences that we should think about that are very germane to Fort Collins so that due diligence is good advice.

Carrie Daggett: one of the things we can do as we are working on the ordinance to bring to Council would be to consider where there might be opportunities to tailor language that won’t interfere with the concerns CML has rightly identified regarding consistency from jurisdiction to jurisdiction. There will some things that we might be able to do that might allow us to address the questions such as the one that Ross raised.

Mayor Troxell: it is a model ordinance and work with David Broadwell (Denver City Attorney) and make sure the overall intent of working together is not unduly compromised but recognize how we have operated as a city.
Other Business;

Travis Storin; I wanted to make the Council Finance Committee aware of the request for an appropriation for the non-congregate shelter

It would be staff’s intention to bring a $400K appropriation request for non-congregate shelter forward on the June 23rd agenda. We did get pre-approval from FEMA that this is a qualifying project. That does not constitute a FEMA guarantee, but we also think they are back up options for outside funding including the Governor’s allocation of CARES. There are a couple different funding options. You are all familiar with the pace and criticality of this – conversations that have taken place over the last few Council meetings.

Mayor Troxel; at LPT we confirmed that we are planning to adjourn on June 23rd for this purpose and others.

Meeting adjourned at 11:36 am
Colorado Sales & Use Tax Software (SUTS) System

Summary Report: July 8, 2020
Colorado Sales & Use Tax Software “SUTS” System

Summary Report: July 8, 2020

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For more information on the SUTS system:

- **SUTS general information** for description, updates, consortium members, etc.
- **SUTS Portal** for businesses to look up tax rates, sign up, log in, remit tax, etc.
- Call Center support for general questions: (303) 238-7378
- **Joining SUTS** if you are a Home Rule jurisdiction: email Tracy.Winchester@state.co.us
- **CML Model Ordinance** assisting Home Rule jurisdictions seeking to join SUTS
- **Press inquiries**: email Meghan.Tanis@state.co.us
Executive Summary

The Sales and Use Tax Software (SUTS) allows businesses to go to a single web “portal” (website) to find all sales and use taxes associated with a specific destination, as well as credits and deductions, and file a single remittance that will then go to multiple jurisdictions.

SUTS was exceptionally successful in every way:

(a) The SUTS development was completed on May 6, 2020, seven weeks ahead of what was already an aggressive estimate of June 30, 2020.

(b) The SUTS budget was $18,750,000 over fiscal years 2020 and 2021, but SUTS was completed at almost $6 million under budget for FY20 and $4.6 million under budget for FY21. About $10.6 million in savings (56.30% of the appropriation) was given back to the General Fund at a critical time given the overall budget shortfalls due to COVID-19.

(c) The SUTS functionality exceeded the minimal viable product established at the start, allowing lookups of sales and use tax but also credits and exemptions with a robust remittance service.

(d) The SUTS acceptance rate also exceeded expectations. The original requirement was for three of the 71 self-collecting-tax municipalities to voluntarily use the system upon launching online and to reach 100% engagement within three years. As of July 6, 2020, twelve (17%) have already signed on, 24% more are in the process of approval, and 48% more are in the evaluation stage.

(e) SUTS yearly maintenance & support is far less than originally anticipated and less than maintaining a system in-house. Starting in FY22, support is estimated to be only about $2.2 million (see “Budget” below), which includes vendors, hosting, call center and infrastructure support for all jurisdictions across Colorado, which

The significant success of SUTS illustrates the collaboration achieved between state government, local jurisdictions, vendors, and the business community. SUTS is a first-of-its-kind software program for the state of Colorado, developed using an Agile methodology. Stakeholders have been engaged throughout the process, from designing the functionality, through procurement, development and ongoing improvements.

This report outlines the background that started the SUTS legislation, then covers the controlled launch, budget, methodology, change management and the future of the system, as well as the stakeholder engagement and Governance that ensured its success. Stakeholder feedback is also included.

Background

Colorado has a unique tax landscape with 272 municipalities, out of which 97 are Home Rule jurisdictions that can establish their own tax base, requiring businesses to file and remit tax directly to the municipality. Out of the 97, Colorado has 71 that are self-collecting-tax jurisdictions.
The Sales and Use Tax Simplification Task Force was originally created in 2017 to find ways to make it easier for businesses to navigate this highly-complex system, and simplicity became imperative after the 2018 Supreme Court’s ruling in South Dakota v. Wayfair that allowed states to require that sellers collect and remit sales tax based on the establishment of an “economic nexus,” doing away with the previous “physical presence” test.

In 2019, the Task Force advocated for legislation and the General Assembly passed SB19-006 (SB6) which required that the Department of Revenue (DOR) and the Governor’s Office of Information Technology (OIT) collaborate to deliver a Sales & Use Tax Software (SUTS) system that could be a single web portal where businesses could both look up sales and use tax information and file and remit to all jurisdictions at once.

Beginning in July, 2019, DOR and OIT designed the concept of a stakeholder Consortium with multiple layers of constituents to participate at every level of development. The Consortium included legislative representation, local jurisdictions, technical and tax experts and members of the business community. The Consortium was empowered to drive real decisions on the functionality, interface and development from the onset of this project.

The procurement was done using a newly-authorized “Invitation to Negotiate” (ITN) process that allowed DOR and OIT to work with vendors closely to find the right match and cost structure. Incorporating Agile methodologies enabled the direction of the project to evolve as understanding grew and requirements developed, culminating in a final product that is truly responsive and adaptive in meeting the needs of the stakeholders.

SUTS was designed collaboratively with the Consortium stakeholders with the expectation that it will be readily adopted.

**Controlled Launch**

On May 6, 2020, DOR and OIT initiated a controlled launch of Colorado.Gov/Revenue/SUTS, a new, one-stop portal that allows users to do two things: (1) look up the sales and use tax rates, including exemptions, for any address in Colorado, and (2) file and remit sales and use tax to multiple jurisdictions in an easy, automated and seamless fashion.

Rifle, Craig, Rideway, and approximately 50 counties and all state-administered (statutory) cities participated in the launch that allowed the SUTS
Team to actively operate the system from end-to-end in a controlled environment with a select number of taxpayers.

SUTS originally launched with three separate vendor agreements that Home Rules needed to sign, which proved cumbersome and legally challenging. Again, with Consortium support and guidance, the agreements were consolidated, streamlined and re-emerged as one inter-governmental agreement (IGA) between DOR and the Jurisdiction. That improved agreement significantly facilitated Home Rule jurisdictions signing up.

**Budget**

For Colorado fiscal year, July 1, 2019, to June 30, 2020, (“FY20”), SB19-006 required an appropriation from the General Fund of $9.183 million for the remittance part of the software, and $817,000 for the “GIS” part that would be the tax look-up functionality, for a total of $10 million. An additional $8.75 million was designated for FY21. The total appropriation for both years was $18,750,000 which was based on a Request for Information (RFI) issued as required by HB18-1022.

<table>
<thead>
<tr>
<th>SB19-006 FUNDING</th>
<th>FY20</th>
<th>FY21</th>
<th>TOTAL</th>
<th>FY22*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Budget Appropriation</td>
<td>$10,000,000</td>
<td>$8,750,000</td>
<td>$18,750,000</td>
<td>$2,218,566</td>
</tr>
<tr>
<td>Vendor development</td>
<td>$3,797,619</td>
<td>$716,266</td>
<td>$4,513,885</td>
<td>$0</td>
</tr>
<tr>
<td>Vendor Support</td>
<td>$0</td>
<td>$1,915,275</td>
<td>$1,915,275</td>
<td>$1,819,200</td>
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<tr>
<td>State Tech/User Support Cost</td>
<td>$228,662.72</td>
<td>$1,150,600</td>
<td>$1,379,263</td>
<td>$399,366</td>
</tr>
<tr>
<td>Total Budget Impact</td>
<td>$4,026,282</td>
<td>$3,782,141</td>
<td>$7,808,423</td>
<td>$2,218,566</td>
</tr>
<tr>
<td>Balance</td>
<td>$5,973,718</td>
<td>$4,967,859</td>
<td>$10,941,577</td>
<td>$0</td>
</tr>
<tr>
<td>General Fund Reversion (56%)</td>
<td>$5,973,718</td>
<td>$4,600,000</td>
<td>$10,573,718</td>
<td></td>
</tr>
<tr>
<td>Contingency in FY21 (2%)</td>
<td>$0</td>
<td>$367,859</td>
<td>$367,859</td>
<td></td>
</tr>
</tbody>
</table>

FY22* Request for FY22 support

As the chart above shows, SUTS total spending for FY20 is $4,026,282, which is almost $6 million under budget. For FY21, SUTS spending is estimated to be $3,782,141, leaving a balance of almost $5 million. The original intention was to ask the General Assembly for a rollover to use the unspent amount for years of support going forward, as DOR had negotiated a discount with vendors for pre-paid support. Then, the pandemic hit and it was more critical to give back all unspent funds to the General Fund to cover economic shortfalls throughout the state. SUTS gave back $5,973,718 in FY20 and $4,600,000 in FY21, for a total of $10,573,718 which is 56.39% of the entire appropriation, without loss of time or functionality.

As the department looks to the future, DOR requests $2,218,566 in FY22 to cover vendor support, hosting, technical and user support and some minor infrastructure costs. This includes only one “Product Owner” (an important Agile role) and four FTE for call center staff as DOR is contractually obligated to provide Tier-1 (general) support. The original appropriation for the system never allocated maintenance and support funding to address ongoing operational needs past FY21. A properly maintained SUTS system is essential for accurate and effective usability of the product for all taxpayers. Without this ongoing support
funding, SUTS would have to be shut down. The FY22 request is a fraction of the estimated 28 FTE plus hosting and support needed if the system had been created completely in-house instead of SUTS implementing a SaaS approach.

In FY21, we will be auditing and assessing the amount of additional money brought into Colorado from SUTS, especially from out-of-state retailers who must comply with the state’s destination sourcing laws.

**Project Management Methodology**

The SUTS team used Agile methodology for planning and development. Instead of creating a comprehensive blueprint at the outset of a project, when understanding is at its lowest, planning happens continuously, through a process of on-going stakeholder engagement and adaptation.

The software's final design emerged through a collaborative effort between developers and business users, requiring a shift in the traditional procurement approach relying heavily on functional specifications written up front.

OIT and DOR employed a relatively new procurement method called an Invitation to Negotiate (ITN), rather than the normally used Request for Proposal (RFP) process. SUTS was the first major technology project in the state to embrace the ITN approach, allowing for greater insight on core products in the marketplace and how the state could fit into that solution rather than assuming needs and fitting a vendor into the solution. DOR was able to take on the role as agency lead in negotiating price and functionality, with OIT in a supporting role helping vendors meet state standards and bringing technical expertise.

MUNIREvs was the vendor contracted to develop and support the filing and payment (remittance) portal, and TTR was contracted to develop the Geographic Information System (GIS) and taxability matrix. FAST Enterprises took the role of integration with DOR’s existing Revenue Online system.

**Change Management Plan**

Change management is the engagement and adoption of SUTS into local governments and businesses. The Change Management Plan (CMP) outlines the processes, systems, organizational structure, and responsibilities for local governments and businesses to transition to SUTS.

The CMP is for:
- Statutory Cities, Counties, and Special Districts that have state-administered tax collection and need to know how this affects their traditional relationship and the process.
- Home Rule Municipalities that want to know how it benefits their communities, yet lets them retain the independence they cherish.
- Businesses that need to know how this works and how it makes their collection and remittance easier.
• DOR and OIT where employees and infrastructure will be needed to support the system.

The CMP details the onboarding, maintenance and support that jurisdictions and businesses can receive from DOR, OIT and the vendors to facilitate the transition and process for using the SUTS System. The support involves individual meetings with each Home Rule municipality to demonstrate the use of the system and to review questions on the SUTS Agreement.

Tutorial video instructions for using the GIS and the remittance portal have been developed for taxpayers and are linked on the DOR Sales Tax webpage.

DOR will continue to work with Home Rule jurisdictions until all 71 self-collecting-tax municipalities have adopted the SUTS System.

**Maintaining the SUTS System**

From a Governance level, the Governance committee will continue to meet monthly to go over financials and any high-level issues around scope, resources, contract management, etc. The Consortium Executive Committee will also meet periodically to look at enhancements.

From a tax data perspective, as sales taxes change due to the passage of new laws, each jurisdiction is responsible for updating their local tax information. A detailed user agreement has been put in place for self-collecting jurisdictions, and users will be held harmless for incorrect data as DOR has certified TTR as an official “source-of-truth” database of sales and use tax information. DOR will make administrative changes for tax changes at the state level.

From a user point of view, DOR will maintain a “Tier-1” call center to handle simple user questions and help them get on the system. The vendors will be supporting “Tier-2” level issues around the software and technology.

From a cost position, the state has contractual payments due to vendors and the costs of call centers and product management which are captured in decision items yearly. When legislation changes the imposition of sales and use tax rates or exemptions, DOR fiscal notes will request funding for changes needed in the SUTS system and the state tax administration system (GenTax).

**Stakeholder Engagement & Governance**

From inception, SUTS was a collaborative effort. The Sales & Use Tax Task Force was made up of representatives from government and business, as were the many associations that came together to create the initial specification for what was needed.

The plan from the beginning was to not build it in a state silo, but rather engage the stakeholders in every phase to build it together. The concept of a Consortium was formed. The largest group in the Consortium was open to the public and invited all the stakeholders, where hundreds had input and were kept involved along the way for feedback at key moments.
of development, but a smaller group, a Consortium Executive Committee, was set up to meet more frequently and guide the project at critical decision points.

Additional subsets included a selection committee to review and select the vendors that would best meet their needs, and a technical committee with those having particularly deep technical knowledge, who helped in the specification and scope of software creation.

Lastly, a Governance Committee meets monthly to review progress and next steps and anything that affects scope, budget or resources.

Details of the Consortium, including members of the Executive Committee, can be found in Appendix A below.

---

**Feedback from representatives of the Consortium Executive Council**

- "Since its inception in 2017, the Sales and Use Tax Simplification Task Force, in collaboration with the Joint Technology Committee, has been working towards the day when Colorado would have a centralized sales tax collection system between state and local governments; that day is here and the SUTS system has surpassed our expectations. CDOR/OIT created a stakeholder consortium of local jurisdictions and businesses to successfully build technology to meet the needs of a 21st century state government." - State Senator Jack Tate, General Assembly, Joint Technology Committee representative.

- “We appreciate the work that DOR has put into making this goal a reality. We appreciate the work of lawmakers and opportunity to participate in the conversation and take an active role in the selection process.” - Dave Davia, Vice President and CEO of the Colorado Association of Mechanical and Plumbing Contractors (CAMPC), Chairman and representative from Simplify Colorado Sales Tax Coalition.
• “I am truly amazed by the level of cooperation and focus on delivering a solution that not only simplifies sales and use tax filings in Colorado but also meets the needs of government and businesses. The SUTS team was truly impressive in the way they mobilized resources quickly to deliver a sales and use tax filing system that provides significant benefit to all users.” - Ezequiel Vasquez, Revenue Manager, City of Arvada, representative from Colorado Municipal League.

• “The Executive Council gave us a chance to see all sides of sales and use tax, the good and the bad. The feedback and collaboration from all sides of sales and use tax gave us a chance to create a system that works for all parties involved with sales and use tax.” - Ray Baca, Sales and Use Tax Analyst, El Paso County, representative from Colorado Counties, Inc.

• “The development of the Sales and Use Tax System has been a well-organized and thought-out process. The opportunity for all stakeholders, including the businesses of Colorado, to be deeply involved in this process has been extremely beneficial and has allowed for a well-considered product set up for success. The Department has listened and considered the thoughts and concerns of all involved in the process.” - Ashley Granger, CPA, Manager, State and Local Tax, Rubin Brown, representative from Colorado Chamber of Commerce.

APPENDIX A: THE CONSORTIUM

Stakeholders Consortium: General stakeholder input was solicited for those who would interface with the SUTS software to ensure a human-centered design. They assisted with the scope of work on the remittance software and convened several times to review the scope of the work on the GIS software side. An Agile approach was used to solicit input and gather information in the form of user stories. Businesses and local taxing jurisdictions were asked to provide examples of their current operation for collecting sales taxes and to describe obstacles or barriers they would like to see removed or beneficial features to add to the new system. Most common feedback from user needs included:

- Search for tax rate and location code by address
- View map of jurisdictional boundaries
- Upload multiple addresses for batch searches
- Download data sets
- Provide specific reports; contact information, trending data, etc.
Consortium Executive Council: The Consortium Executive Council was created to provide perspective from stakeholders who are currently operating within the boundaries of multiple taxing jurisdictions. Their role is to deliberate on direction, prioritization, and strategic input on issues that affect both taxing authorities and the business customer. The Council has representatives from the General Assembly, Colorado counties, Home Rule jurisdictions, special districts, business organizations, and included the following members, to whom we owe a great deal of appreciation and gratitude:

- General Assembly: Senator Jack Tate, Joint Technology Committee
- Counties and Commissioners Acting Together: Ramona Farineau, CFO, Boulder County
- Colorado Chamber of Commerce: Ashley Granger, CPA Manager, RubinBrown
- Special District Association: Heather McKillop, CFO, Regional Transportation District
- Colorado Counties, Inc: Breanna Paderewski-Vice, Senior Budget Analyst, Douglas County, and Ray Baca, Sales and Use Tax Analyst, El Paso County
- Colorado Municipal League: Heather Pezella, Revenue Services Manager, Town of Breckenridge, and Ezequiel Vasquez, Revenue Manager, City of Arvada
- Simplify Colorado Sales Tax Coalition: Lee Nelson, Assistant Controller, American Furniture Warehouse

**APPENDIX B: SUTS VENDORS**

MuniRevs: MUNIRevs provides the easiest way for jurisdictions to collect, and businesses to remit, sales and other taxes. Over 50,000 businesses utilize MUNIRevs to remit taxes, manage licenses and ensure compliance with jurisdiction requirements. Founded in 2011, the MUNIRevs team provide expertise and nimble software solutions to jurisdictions for sales tax, licensing and permitting. MUNIRevs has automated the delivery of over $1 billion in tax revenues to jurisdictions throughout the United States. To learn more, visit [www.munirevs.com](http://www.munirevs.com).

TTR (The Tax Research Company) provides everything sales, use, and transaction tax related. Access to tax laws, a best in class research system, the most accurate tax rates and taxability rules available anywhere; with 10,000 companies and counting, TTR has become a “best practice” in the area of sales, use, and transaction tax. TTR also provides software solutions for companies and governments. TTR's revolutionary Artificial Intelligence Enabled Exemption Certificate Management System (ECMS), Tax Automation software, and proprietary nationwide GIS Tax Rate System allow businesses and states to Get Tax Right. To learn more, visit [www.ttrus.com](http://www.ttrus.com).

Implementation Specialists. Software Pioneers. Adventure Seekers. FAST Enterprises is committed to being a premier provider of software and consulting services to government agencies. FAST is dedicated to problem-solving, creating solutions, and maintaining strong partnerships with government agencies. We help our clients serve the needs of their communities to the best of their ability. To learn more, visit [fastenterprises.com](http://fastenterprises.com).
Economic Nexus and the Obligation of Remote Sellers to Collect and Remit Sales Tax
Agenda

- *Wayfair* Background
- Current Status
- Council Discussion
Wayfair Decision June 2018

The Supreme Court held that an out-of-state retailer does not need a physical presence in a state before the state can require the retailer to collect and remit sales tax. However, a substantial nexus is needed.

The Supreme Court held that South Dakota’s tax law properly identified when a retailer had a substantial nexus with the state for tax purposes:

- Annual **minimum sales of $100,000**; or
- A minimum of **200 separate sales transactions** of any amount
Remote sellers above the de minimis level (same as South Dakota)

The State of Colorado collects state sales tax and local sales tax for entities it collects for

Responsible for approx. 265 jurisdictions
- 150 statutory cities
- All but two counties
- 24 home rule (state collected)
State House Bill 19-1240 (July 2019)

- Establishes economic nexus for purposes of retail sales made by retailers without physical presence
- Codifies destination sourcing
  - Establishes an exception to destination sourcing
- As of October, requires marketplace facilitators to collect and remit sales tax on behalf of marketplace sellers

https://leg.colorado.gov/bills/hb19-1240
Colorado Municipal League (CML) October 2018

71 self-collected municipalities

Largest population centers

Consensus – risks to self-collecting proceeding independently:
- Lawsuit or
- Undue burden prohibited by Wayfair

Agreement that CML and its members should lead the discussion and propose the solution, along with Department of Revenue, rather than let the legislature decide

Risks discussed
- Single state vs. numerous taxing jurisdictions
- Colorado not part of Streamlined Sales & Use Tax Agreement (South Dakota is)
- If one jurisdiction proceeds alone, could bar other jurisdictions until court case is resolved
State’s single point of remittance software (SUTS System) & single GIS system

• Remote sellers with economic nexus can file & pay via the SUTS System

• Available for any business not just those with economic nexus only

• Businesses with physical presence would still need to have a Fort Collins sales tax license

• $17.5k fee for software integration – can also do manually without a fee, incl staff time

• Additional filing option for businesses – paper, Fort Collin’s online system or the SUTS System
May 2020 - Model Ordinance

• Has language around economic nexus and marketplace facilitators

• CML suggests adopting this language if cities move away from voluntary compliance and into collecting from out-of-state, remote sellers that only have economic nexus

• CML recommends doing this for cities that are going to use the DOR single point of remittance

• CML asks that cities use model ordinance language when it is available – the goal is simplification under Wayfair to avoid any lawsuits
Model Ordinance
Requires a code changes for language around economic nexus & marketplace facilitators

Economic Nexus
• Definition of engaged in business
• Who is taxed and who is compelled to collect the tax

Marketplace Facilitator
• Definition of retailer
• Who collects the tax
Majority of home rule cities need to participate to keep the sales tax system as simple as possible according to Wayfair – critical for larger home rules like Fort Collins to join.

What are other cities doing?

<table>
<thead>
<tr>
<th>City</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Denver</td>
<td>Plans to participate, SUTS first and model ordinance later this fall</td>
</tr>
<tr>
<td>C. Springs</td>
<td>SUTS agreement and model ordinance already signed</td>
</tr>
<tr>
<td>Boulder</td>
<td>Plans to participate, SUTS first and model ordinance later this fall/early 2021</td>
</tr>
<tr>
<td>Aurora</td>
<td>Marketplace Facilitator adopted, SUTS &amp; Economic Nexus later this fall</td>
</tr>
<tr>
<td>Golden</td>
<td>SUTS agreement signed, model ordinance later this summer</td>
</tr>
<tr>
<td>Thornton</td>
<td>Plans to participate, SUTS first and model ordinance later</td>
</tr>
<tr>
<td>Centennial</td>
<td>Plans to participate, no use tax, may have issues with economic nexus</td>
</tr>
</tbody>
</table>

Source: Department of Revenue, August 17, 2020

Home Rule Response to SUTS Agreement

- 34% Under Review
- 29% Pending Signatures
- 34% On SUTS System
- 3% Staffing Delay

Source: Department of Revenue, August 17, 2020
Local sales tax collection - why is Fort Collins not state-collected?

• Control of sales tax base
• State of Colorado has 87 sales & use tax exemptions
  • Reduction of collections over $2 billion

• More targeted collection & enforcement
  • Local program can more thoroughly educate businesses and follow up with auditing where appropriate

SUTS System and model ordinance compatible with maintaining home rule self-collecting status
Nationally e-commerce represents 11.8%* of total retail sales

<table>
<thead>
<tr>
<th>Retailer**</th>
<th>Ecommerce Share</th>
<th>Licensed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amazon</td>
<td>49.1%</td>
<td>Yes</td>
</tr>
<tr>
<td>eBay</td>
<td>6.6%</td>
<td>No</td>
</tr>
<tr>
<td>Apple</td>
<td>3.9%</td>
<td>Yes</td>
</tr>
<tr>
<td>Walmart</td>
<td>3.7%</td>
<td>Yes</td>
</tr>
<tr>
<td>The Home Depot</td>
<td>1.5%</td>
<td>Yes</td>
</tr>
<tr>
<td>Best Buy</td>
<td>1.3%</td>
<td>Yes</td>
</tr>
<tr>
<td>QVC Group</td>
<td>1.2%</td>
<td>No</td>
</tr>
<tr>
<td>Macy's</td>
<td>1.2%</td>
<td>Yes</td>
</tr>
<tr>
<td>Costco</td>
<td>1.2%</td>
<td>No</td>
</tr>
<tr>
<td>Wayfair</td>
<td>1.1%</td>
<td>No</td>
</tr>
</tbody>
</table>

Other licensed ecommerce retailers:
- Google
- Zappos.com Inc
- Fanatics Inc
- Overstock.com
- Chewy Inc
- Nike
- 1-800-Flowers.com Inc
- Chegg Inc
- Bonobos Inc
- IKEA
- Audible Inc
- Spotify
- Netflix
- Intuit

*U.S. Census Quarterly Retail E-Commerce Sales 1st Quarter 2020
**Top 10 US companies based on % of e-commerce sales, eMarketer, July 2018
The leap

How fast is the world moving around us? Consider how quickly e-commerce has replaced physical channels in three months.

Estimated e-commerce retail sales tax

- State estimates $72 million in 2020 from economic nexus and marketplace facilitators*
- Equivalent to 2.1% of collections
- 2.1% is $2.5M Fort Collins
- Some retailers already remitting voluntarily in Fort Collins

Marketplace facilitators

- More than half of items sold on Amazon through third-party marketplace**
- Some turned off collection of local taxes on behalf of sellers, leaving them no way to collect tax

Sales Tax Department

- Estimate of 1 FTE or partial FTE with license volume and workload
- Evaluate need for software integration or new software system

*Colorado Legislative Council Staff – Economic & Revenue Forecast December 2019, p.28
**Amazon 2017 Annual Report, Letter to Shareholders
On June 15th, Council Finance Committee supported Colorado Municipal League Model Ordinance for **Marketplace Facilitators** and **Economic Nexus** come forward for consideration of adoption.
ORDINANCE NO. 111, 2020
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING CHAPTER 25 OF THE CODE OF THE CITY OF FORT COLLINS
REGARDING ECONOMIC NEXUS AND THE OBLIGATION OF REMOTE SELLERS
TO COLLECT AND REMIT SALES TAX

WHEREAS, Fort Collins is a home rule municipality, organized and existing under Article XX, Section 6 of the Colorado Constitution; and

WHEREAS, pursuant to Article XX, Section 6 of the Colorado Constitution, the right to enact, administer and enforce sales tax is clearly within the constitutional grant of power to the City and is necessary to raise revenue with which to conduct the affairs and render the services performed by the City; and

WHEREAS, pursuant to such authority, the City Council has adopted and enacted Article III of Chapter 25 of the City Code imposing a sales tax (the “Sales Tax Code”), under which City sales tax is levied on all sales and purchases of tangible personal property or taxable services at retail unless prohibited, as applicable to the provision of this Ordinance, under the Constitution or laws of the United States; and

WHEREAS, the United States Supreme Court in South Dakota v. Wayfair, 138 S.Ct. 2080 (2018), overturned prior precedent and held that a State is not prohibited by the Commerce Clause from requiring a retailer to collect sales tax based solely on the fact that such retailer does not have a physical presence in the State (“Remote Sales”); and

WHEREAS, based upon the Wayfair decision, under the Constitution and laws of the United States the retailer’s obligation to collect and remit tax due and owing on Remote Sales is no longer based on the retailer’s physical presence in the jurisdiction, and the City’s Sales Tax Code needs to be amended to clearly reflect such obligation consistent with said decision; and

WHEREAS, the delivery of tangible personal property, products, or services into the City relies on and burdens local transportation systems, emergency and police services, waste disposal, utilities and other infrastructure and services; and

WHEREAS, the failure to tax Remote Sales creates incentives for businesses to avoid a physical presence in the State and its respective communities, resulting in fewer jobs and increasing the share of taxes to those consumers who buy from competitors with a physical presence in the State and its municipalities; and

WHEREAS, it is appropriate for Colorado municipalities to adopt uniform definitions within their sales tax codes to encompass marketplace facilitators, marketplace sellers, and multichannel sellers that do not have a physical presence in the City, but that still have a taxable connection with the City; and
WHEREAS, the goal of adopting this ordinance is to join in on the simplification efforts of all the self-collecting home rule municipalities in Colorado as facilitated by the Colorado Municipal League; and

WHEREAS, this ordinance provides a safe harbor to those who transact limited sales within the City; and

WHEREAS, absent such amendment, the continued failure of retailers to voluntarily apply and remit sales tax owed on remote sales exposes the City to unremitting taxes and permits an inequitable exception that prevents market participants from competing on an even playing field; and

WHEREAS, the Council adopts this Ordinance with the intent to address tax administration, and, in connection therewith, establish economic nexus for retailers or vendors without physical presence in the State and require each such retailer or vendor to collect and remit sales tax for all sales made within the marketplace.

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

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

Section 2. That Section 25-71 of the Code of the City of Fort Collins is hereby amended to add certain definitions and amend certain existing definitions, to read as follows:

. . .

Economic nexus shall mean the connection between the City and any retailer not having a physical nexus in the State of Colorado, which connection is established when the retailer meets any one of the following criteria:

(1) In the previous calendar year, the retailer has made retail sales of goods or services delivered into the State of Colorado exceeding the amount specified in C.R.S. § 39-26-102(3)(c), as amended; or

(2) In the current calendar year, ninety (90) days has passed following the month in which the retailer has made retail sales into the State of Colorado exceeding the amount specified in C.R.S. § 39-26-102(3)(c), as amended.

This definition does not apply to any person who is doing business in this state but otherwise applies to any other person.

Engaged in business in the City shall mean performing or providing services or selling, leasing, renting, delivering or installing tangible personal property, products, or services for storage, use
or consumption within the City. Engaged in business in the City includes, but is not limited to, any one of the following activities by a person or retailer:

(1) Directly, indirectly, or by a subsidiary maintaining a building, store, office, salesroom, warehouse, or other place of business within the taxing jurisdiction;

(2) Sending one (1) or more employees, agents or commissioned sales persons into the taxing jurisdiction to solicit business or to install, assemble, repair, service, or assist in the use of its products, or for demonstration or other reasons;

(3) Maintaining one (1) or more employees, agents or commissioned sales persons on duty at a location within the taxing jurisdiction;

(4) Ownings, leasinges, rentinges or otherwise exercising control over real or personal property within the taxing jurisdiction; or

(5) Makes more than one (1) delivery into the taxing jurisdiction within a twelve-month period by any means other than a common carrier. As a retailer, who has a physical presence in the State of Colorado, making more than one (1) retail sale of tangible personal property, products or services within a twelve (12) month period, where the property or product is delivered by any means, including common carrier, to a location within the City, or the service rendered occurs within the City; or

(6) Making retail sales sufficient to meet the definitional requirements of economic nexus as defined in this Article.

... 

*Marketplace* shall mean a physical or electronic forum, including, but not limited to, a store, a booth, an internet website, a catalog, or a dedicated sales software application, where tangible personal property, taxable products, or taxable services are offered for sale.

*Marketplace facilitator* shall mean a person who:

(1) Contracts with a marketplace seller or multichannel seller to facilitate for consideration, regardless of whether or not the consideration is deducted as fees from the transaction, the sale of the marketplace seller’s tangible personal property, products, or services through the person’s marketplace or a marketplace operated by the person;

(2) Engages directly or indirectly, through one or more affiliated persons, in transmitting or otherwise communicating the offer or acceptance between a purchaser or consumer and the marketplace seller or multichannel seller; and

(3) Either directly or indirectly, through agreements or arrangements with third parties, collects or accepts and processes payment from the purchaser or consumer on behalf of the seller.
Marketplace facilitator does not include a person who exclusively provides internet advertising services or lists products for sale, and that does not otherwise meet this definition.

Marketplace seller shall mean a person, regardless of whether or not the person is engaged in business in the City, who has an agreement with a marketplace facilitator and offers for sale tangible personal property, products, or services through a marketplace owned, operated, or controlled by a marketplace facilitator.

... Multichannel seller shall mean a retailer that offers for sale tangible personal property, commodities, or services through a marketplace owned, operated, or controlled by a marketplace facilitator, and through other means.

Retailer shall mean any person selling, leasing, renting, or granting a license to use tangible personal property or services at retail. Retailer shall include, but is not limited to, any:

(1) Auctioneer;

(2) Salesperson, representative, peddler or canvasser, who makes sales as a direct or indirect agent of or obtains such property or services sold from a dealer, distributor, supervisor or employer; and

(3) Charitable organization or governmental entity which makes sales of tangible personal property to the public, notwithstanding the fact that the merchandise sold may have been acquired by gift or donation or that the proceeds are to be used for charitable or governmental purposes; and

(4) Marketplace facilitator, marketplace seller, or multichannel seller.

... Section 3. That Section 25-73 of the Code of the City of Fort Collins is hereby amended to read as follows:

... (b) Taxable transactions and items. The sales tax shall apply, without limitation, as follows:

... (11) Upon all sales of preprinted newspaper supplements; and

(12) Upon the purchase price paid for food, but only at the tax rate of two and twenty-five hundredths (2.25) percent of the purchase price; and
Upon marketplace sales, pursuant to § 25-131.

Section 4. That a new Section 25-131 of the Code of the City of Fort Collins is hereby added to read as follows:

Sec. 25-131. Marketplace sales.

(a) Obligation to collect and remit tax.

(1) A marketplace facilitator engaged in business in the City is required to collect and remit sales tax on all taxable sales made by the marketplace facilitator, or facilitated by it for marketplace sellers or multichannel sellers, to customers in the City, whether or not the marketplace seller for whom sales are facilitated would have been required to collect sales tax had the sale not been facilitated by the marketplace facilitator.

(2) A marketplace facilitator shall assume all the duties, responsibilities, and liabilities of a retailer as defined in this Article. Marketplace facilitators shall be liable for the taxes collected from marketplace sellers or multichannel sellers. The City may recover any unpaid taxes, penalties, and interest from the marketplace facilitator that is responsible for collecting on behalf of marketplace sellers or multichannel sellers.

(3) The liabilities, obligations, and rights set forth under this Article are in addition to any duties and responsibilities of the marketplace facilitator under this Article if it also offers for sale tangible personal property, products, or services through other means.

(4) A marketplace seller shall be subject to all the same licensing, collection, remittance, filing and recordkeeping requirements as any other retailer under this Article for retail sales made on its own behalf and not facilitated by or through a licensed marketplace facilitator in a marketplace.

(b) Marketplace seller relief. A marketplace seller, with respect to sales of tangible personal property, products, or services made in or through a marketplace facilitator’s marketplace, does not have the liabilities, obligations, or rights of a retailer under this Article if the marketplace seller can show that such sale was facilitated by a marketplace facilitator:

(1) With whom the marketplace seller has a contract that explicitly provides that the marketplace facilitator will collect and remit sales tax on all sales subject to tax under this Article; or

(2) From whom the marketplace seller requested and received in good faith a certification that the marketplace facilitator is registered to collect sales tax and will collect sales tax on all sales subject to tax under this Article made in or through the marketplace facilitator’s marketplace.
(c) **Auditing.** With respect to any marketplace sale, the City shall solely audit the marketplace facilitator for sales made by marketplace sellers or multichannel sellers but facilitated by the marketplace. The City will not audit or otherwise assess tax against marketplace sellers or multichannel sellers for sales facilitated by a marketplace facilitator.

(d) **No retroactive application.** The obligations to collect and remit the sales tax required by this Section apply to taxable transactions occurring on or after the effective date of this Section.

Section 5. If any provision of this Ordinance, or the application of such provision to any person or circumstance, is held to be unconstitutional or invalid for any reason, then the remainder of this Ordinance, and the application of the such provisions to any person or circumstance, shall not be affected thereby. The City Council hereby declares that it would have passed this ordinance and each part or parts thereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 6. The requirements set forth in this Ordinance shall become effective [on the first day of the month that is at least thirty (30) days after its effective date] November 1, 2020.

Introduced, considered favorably on first reading, and ordered published this 1st day of September, A.D. 2020, and to be presented for final passage on the 15th day of September, A.D. 2020.

________________________
Mayor

ATTEST:

_____________________________
City Clerk

Passed and adopted on final reading on this 15th day of September, A.D. 2020.

________________________
Mayor

ATTEST:

_____________________________
City Clerk
AGENDA ITEM SUMMARY
City Council
September 1, 2020

STAFF
Delynn Coldiron, City Clerk
Rita Knoll, Chief Deputy City Clerk
Ryan Malarky, Legal

SUBJECT
First Reading of Ordinance 112, 2020, Amending Section 7-135 of the Code of the City of Fort Collins to Amend Requirements and Procedures Related to Campaigns and Campaign Finance in City Elections.

EXECUTIVE SUMMARY
The purpose of this item is to consider proposed amendments to the City’s election campaign Code provisions.

STAFF RECOMMENDATION
Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION
In 2015, Council formed an ad hoc committee to review, discuss and recommend changes to the City Code and Charter regarding elections and other related matters. In 2017, Council made the ad hoc committee a standing committee of the Council (the Election Code Committee or ECC) for the purpose of identifying and evaluating ideas for improvements to City election laws and practices and anticipating adjustments that may be needed to adapt to a rapidly changing legal and technological environment. Mayor Troxell and Councilmembers Pignataro and Summers are the current members of the ECC. Councilmember Pignataro serves as the Chair.

At the August 25, 2020 Work Session, Council reviewed recommended changes to Chapter 7 of the Code of the City of Fort Collins related to campaigns and campaign finance in City elections from the Election Code Committee. The items contained in this Ordinance represent the items the Election Code Committee did not reach consensus on. A work session summary is attached. (Attachment 1).

A summary of the proposed amendments follows:

Regulation of Limited Liability Company (LLC) Contributions:

Members of the public attending ECC meetings expressed some interest in aligning local City Code provisions with state law regarding the reporting of contributions by limited liability companies (LLCs). The ECC discussed such regulations and, while not coming to a consensus about whether to support them, the ECC determined it was appropriate to forward the matter to Council for its consideration. Under City provisions, an LLC is considered a “person”, separate and distinct from a natural person. As such, a natural person can make the maximum allowed contribution to a candidate committee, and an LLC, of which the natural person is a member, may also make the maximum contribution to a candidate committee. Under state law, contributions from an LLC must be accompanied by a written statement that includes, among other things, information on how the contribution is attributed among the LLC members. The attribution to an individual member of the LLC then counts toward the aggregate contribution limit of the individual as a person.
Limitation of Contributions to Political Committees:

Members of the public attending ECC meetings expressed some interest in limiting contributions to political committees, similar to provisions in state law. Under state law, contributions to political committees are limited, and the committee is allowed to make contributions to candidate committees. Fort Collins does not limit contributions to a political committee but does not allow a political committee to make direct contributions to any type of committee. A political committee may only accept contributions or make expenditures to support or oppose one or more candidates. In addition, a political committee is prohibited from coordinating its expenditures with any other such committee in a manner that circumvents any restrictions or limitations on campaign contributions, expenditures or reporting set forth in the Code. After discussion of this issue, the ECC did not take a position on it. A comparison chart is attached giving more information on the various types of committees the Code allows and some related information. (Attachment 2). A detailed memo previously given to Council providing clarification regarding the participation of political action committees and 527 groups in City elections and relationship to City political committees is also attached. (Attachment 3).

CITY FINANCIAL IMPACTS

Any financial impacts as a result of these amendments will be negligible.

BOARD / COMMISSION RECOMMENDATION

None.

PUBLIC OUTREACH

Meetings of the Election Code Committee are posted on the City’s website in advance of the meeting. Several members of the community regularly attend Committee meetings and provide input on topics on the agenda and other items of interest. Draft minutes from these meetings are attached. (Attachment 4)
ORDINANCE NO. 111, 2020
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING CHAPTER 7 OF THE CODE OF THE CITY OF FORT COLLINS
TO AMEND REQUIREMENTS AND PROCEDURES FOR CITY ELECTIONS AND
CAMPAIGN FINANCE IN CITY ELECTIONS

WHEREAS, Chapter 7 of the City Code sets out procedures and requirements for
redistricting of Council districts, for the conduct of City elections, for disclosure of campaign
finance information, and other related matters; and

WHEREAS, in 2015 the City Council formed an ad hoc committee to review, discuss and
recommend the most beneficial changes to the Code and City Charter regarding elections and
other related matters; and

WHEREAS, in January 2017, Council made the ad hoc Committee a standing committee
of Council for the purpose of identifying and evaluating ideas for improvements to City election
laws and practices and anticipating adjustments that may be needed to adapt to a changing legal
and technological environment, for Council consideration; and

WHEREAS, as a result of the Committee’s work (as both an ad hoc committee and a
standing committee), Ordinance No. 021, 2016, Ordinance No. 005, 2017, Ordinance No. 045,
2018, Ordinance No. 077, 2018, and Ordinance No. 113, 2018 were considered by the Council to
update various provisions of Chapter 7; and

WHEREAS, the Committee continued to meet in 2018, 2019 and 2020, and has
recommended additional clarifications and amendments to Chapter 7; and

WHEREAS, the Committee has recommended that the Code be amended to including
new procedures for the handling of complaints filed by candidates or registered electors of the
City, including amendments such that a majority of campaign finance violations would be
changed from misdemeanor violations to civil infractions; and

WHEREAS, the Committee has recommended that the Code be amended to allow that
unexpended campaign contributions may be used for subsequent federal, state, county, local or
City elections, to the extent permitted by law; and

WHEREAS, the Committee has recommended that unexpended campaign funds
remaining with a candidate committee on the 70th day after the election will be considered
contributions to that candidate committee for the next election; and

WHEREAS, the Committee has recommended that the complainant cause of action in
Section 7-150 be removed from the Code because recent case law raises substantial concerns
about its constitutionality; and
WHEREAS, staff has recommended that the deadline for filing financial disclosures by Councilmembers be made uniform for those Councilmembers sitting on Council and for those newly elected, re-elected, appointed or retained Councilmembers; and

WHEREAS, the Council gave direction to staff at its August 25, 2020 work session to present Code amendments to create certain requirements on limited liability companies concerning contributions, contribution limits, and disclosures; and

WHEREAS, these amendments generally improve and clarify the City’s campaign finance disclosure and election requirements and processes; and

WHEREAS, these amendments further the City’s and the public’s interest in shedding light for the public on the expenditure of money to influence the outcome of City elections, while respecting the speaker’s interest in freedom of political speech; and

WHEREAS, the Council desires to enact the recommendations of the Committee and staff to clarify and improve the various provisions of Chapter 7, as set forth below.

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

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

Section 2. That Section 2-636 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 2-636. Required.
Any candidate for the office of City Councilmember shall, at the time of filing his or her acceptance of nomination with the City Clerk, file with the City Clerk a written disclosure statement that conforms to the requirements of § 2-637. Such a written disclosure statement shall also be filed with the City Clerk by each member of the City Council, the City Manager and the City Attorney not later than thirty (30) days after their election, re-election, appointment or retention in office. Each member of the City Council who is elected, re-elected, appointed or retained in office shall also file such a written disclosure statement with the City Clerk not later than May 15 of the year in which their election, re-election, appointment or retention in office occurs, provided that any City Councilmember who is elected or re-elected and who has, prior to said election or re-election, filed a written disclosure statement within ten (10) days after filing acceptance of nomination, may file an amended statement with the City Clerk or notify the City Clerk in writing that there has been no change in the disclosures made therein, since the date of filing of the same.

Section 3. That Section 7-135 of the Code of the City of Fort Collins is hereby amended to read as follows:
Sec. 7-135. Campaign contributions/expenditures.

. . .

(b) Limited Liability Company Contributions. A limited liability company ("LLC") may make contributions to and/or contributions in kind subject to the limits provided herein and to the following requirements:

(1) LLC contributions shall be attributed to the members of the LLC. For those members that are natural persons, the amount the person contributes as a member of the LLC counts towards the aggregate contribution limit for that person in subsection (a) herein.

(2) The LLC shall provide the candidate or committee with a written statement affirming the permissibility of the contribution on a form provided by the City Clerk. The affirmation shall include:

a. The name and address of all LLC members;

b. Information on how the contribution is attributed among the LLC members, which attribution must reflect the capital the member has invested in the LLC or the percentage of ownership the member has in the LLC at the time of the contribution.

(3) The candidate or committee receiving the contribution shall:

a. Retain the affirmation statements for one (1) year after the end of the election cycle; and

b. List both the individual LLC members’ names as contributors as well as the name of the LLC.

(4) As used in this Subsection (b), “limited liability company” shall have the same meaning as “domestic limited liability company” as defined in Section 7-90-102(15), C.R.S., or “foreign limited liability company” as defined in Section 7-90-102(24), C.R.S.

(bc) Joint contributions. No person shall make a contribution jointly with another person through the issuance of a check drawn on a jointly owned account unless: (i) the total amount of the joint contribution is less than the maximum amount that can be contributed by one (1) person under the contribution limits established in Subsection (a) of this Section or (ii) the check is signed by all owners of the account, in which event the amount of the total contribution shall be allocated equally among all such persons unless a different allocation is specified on the face of the check. No candidate committee shall knowingly accept a contribution made in violation of this Subsection (b).

(ed) Contributions in excess of limits. No later than ten (10) business days after receiving a contribution in excess of the limits set forth in this Section, the candidate committee that received the contribution shall remit the excess to the contributor.

(ee) No candidate committee, issue committee, small-scale issue committee or political committee shall knowingly accept contributions from any person who is not a citizen of the United States, from a foreign government or from any foreign corporation that does not have authority to transact business in this State pursuant to Article 115 of Title 7, C.R.S.

(f) Contributions from one (1) candidate committee to another.
(1) No candidate committee shall make a contribution or contribution in kind to, or accept a contribution or contribution in kind from, a candidate committee of another candidate.

(2) No candidate committee shall accept a contribution or contribution in kind from a candidate committee of the same candidate that was established or maintained for a federal, state or county election campaign or office.

(4g) Recordkeeping.

(1) All contributions received by a candidate committee, small-scale issue committee, issue committee or political committee shall be documented and deposited and maintained in a financial institution in a separate account whose title shall include the name of the committee. All records pertaining to contributions and related accounts shall be maintained by the committee for one (1) year following any election in which the committee received contributions unless a complaint has been filed under Subsection 7-145(a) alleging a violation of the provisions of this Article, or the person or committee has received notice of an investigation or prosecution of a violation of this Article by the City or other law enforcement authority, in which case they shall be maintained until final disposition of the complaint and any consequent court proceedings. Such records shall be subject to inspection in connection with any investigation or other action to enforce the terms of this Article.

(2) All expenditures shall be documented and all records pertaining to said expenditures, including but not limited to invoices, receipts, instruments of payment, and copies of any public communications produced as a result of the expenditure, shall be maintained by the committee for one (1) year following any election in which the committee expended the funds unless a complaint has been filed under Subsection 7-145(a) alleging a violation of the provisions of this Article, or the person or committee has received notice of an investigation or prosecution of a violation of this Article by the City or other law enforcement authority, in which case they shall be maintained until final disposition of the complaint and any consequent court proceedings. Documentation shall include the name and address of the vendor(s) or payee(s) providing the property, materials, or services and the amount of the expenditure. Such records shall be made available within three (3) business days upon request of the City and subject to inspection in connection with any investigation or other action to enforce the terms of this Article.

(4h) Reimbursements prohibited. No person shall make a contribution to a candidate committee, issue committee, small-scale issue committee or political committee with the expectation that some or all of the amounts of such contribution will be reimbursed by another person. No person shall be reimbursed for a contribution made to any candidate committee, issue committee, small-scale issue committee or political committee, nor shall any person make such reimbursement. An unexpended campaign contribution returned to a contributor by a candidate committee pursuant to § 7-135(c) shall not be considered a reimbursement.

(4i) A candidate committee, issue committee, small-scale issue committee or political committee shall not coordinate its expenditures with any other such committee in a manner that circumvents any restrictions or limitations on campaign contributions, expenditures or reporting set forth in this Article.
Section 4. That Section 7-136 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 7-136. Disclosure; filing reports.

(a) All candidate committees, political committees and issue committees shall report to the City Clerk their contributions and contributions in kind received, including the name and address of each person who has made a contribution or a contribution in kind in the amount of twenty dollars ($20.) or more; expenditures made; and obligations entered into by the committee.

(g) Any report that is deemed by the City Clerk to be incomplete or inconsistent with the requirements of this Article shall be accepted on a conditional basis, and shall be subject to the penalties and process of § 7-143 and the committee’s registered agent shall be notified in writing as to any deficiencies found. Such notice may be delivered in person, by mail, by fax, or, if an electronic mail address is on file with the City Clerk, by electronic mail. The committee’s registered agent shall have seven (7) business days from the date of delivery of such notice to file an amended report that cures the deficiencies. Any such amended report shall supersede the original report filed for the reporting period.

Section 5. That Section 7-138 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 7-138. Unexpended campaign contributions.

(a) Unexpended campaign contributions to a candidate committee may be:

(1) Contributed to a political party;

(2) Contributed to a candidate committee established by the same candidate for a subsequent campaign in a federal, state, county, local or City election, to the extent permitted by applicable law. For a City election, such contributions are subject to the limitations set forth in Paragraph 7-135(e)(2), if the candidate committee making such a contribution is affirmatively closed by the candidate no later than ten (10) days after the date such a contribution is made;

(3) Donated to a charitable organization recognized by the Internal Revenue Service;

(4) Returned to the contributors;

(5) Used to pay for the cost of a recount requested by the candidate pursuant to § 7-46.

In no event shall contributions to a candidate committee be used for personal purposes not reasonably related to supporting the election or retention of the candidate.

(b) In addition to any use described in Subsection (a) of this Section, a person elected to the office of Mayor or Councilmember, or retained in office following a recall attempt, may use...
unexpended campaign contributions held by the person's candidate committee for any of the following purposes:

1. Voter registration;
2. Political issue education, which includes obtaining information from or providing information to the electorate;
3. Postsecondary educational scholarships;
4. To defray reasonable and necessary expenses related to mailings and similar communications to constituents;
5. Any expenses that are directly related to such person's official duties as an elected official, including, but not limited to, expenses for the purchase or lease of office equipment and supplies, room rental for public meetings, necessary travel and lodging expenses for legislative education such as seminars, conferences and meetings on legislative issues, and telephone and pager expenses.

(c) A candidate committee for a former officeholder or a person not elected to office shall expend all of the unexpended campaign contributions retained by such candidate committee, for the purposes specified in Subsection (a) of this Section, no later than five (5) years from the date such officeholder's term expired or from the date of the election at which such person was a candidate for office, whichever is later.

(d) Unexpended contributions to an issue committee or political committee may be donated to any charitable organization recognized by the Internal Revenue Service, returned to the contributor, or used to pay for the cost of a recount requested by the committee's registered agent pursuant to § 7-46.

(e) Any contributions received by a candidate committee that remain unexpended as of the seventieth (70th) day after the election shall be considered contributions to that candidate committee for use in the next election under that same candidate committee name.

Section 6. That Section 7-143 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 7-143. Violations and penalties.

(a) Except as provided in Subparagraph (e) herein, a person who knowingly violates or fails to comply with any of the provisions of this Article as set forth in the following schedule commits a misdemeanor civil infraction and is subject to a fine or imprisonment in accordance with § 1-15 a civil penalty as follows:

<table>
<thead>
<tr>
<th>Code Section</th>
<th>Penalty Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>7-134 – Registration of committees;</td>
<td>$150 first offense; $300 each subsequent offense</td>
</tr>
<tr>
<td>termination</td>
<td></td>
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<tr>
<td>7-135 – Campaign contributions/expenditures.</td>
<td>$100 first offense; $200 each subsequent offense</td>
</tr>
<tr>
<td>7-136 – Disclosure; filing of reports</td>
<td>$100 first offense; $200 each subsequent offense</td>
</tr>
</tbody>
</table>
(b) Any person who undertakes the following commits a misdemeanor and is subject to a fine or imprisonment in accordance with § 1-15:

(1) Knowingly violates § 7-136 with the intent to fraudulently misrepresent campaign contributions or expenditures on a disclosure report;

(2) Knowingly violates § 7-142; or

(3) Is found liable for a violation after the person has been found liable for two (2) or more violations under this Article in a single election cycle.

(c) Failure to comply with the provisions of this Article shall have no effect on the validity of any election, except as expressly required by the City Charter.

Section 7. That Section 7-145 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 7-145. Allegation of campaign violation.

... 

(c) For complaints that allege a criminal violation as set forth in § 7-143(b), the City Clerk will forward the complaint to the respondent and to the City Attorney, who will evaluate the complaint for probable cause as provided for in this Division 2.

(d) For complaints that do not allege a criminal violation, the complaints shall be subject to a civil infraction process as provided herein:

(1) The City Clerk will forward the complaint to the respondent by electronic mail, notifying the respondent that the alleged violation may be subject to a civil infraction.

(2) The City Clerk will forward the complaint to the City Attorney, who shall review the complaint to determine whether the complaint:

a. Was timely filed under § 7-145(a);
b. Contains the information required by § 7-145(b); and

c. Alleges sufficient facts to support a factual and legal basis for the violations alleged.

(3) If the City Attorney determines that the complaint fails to satisfy any of the three (3) elements in the immediately preceding Subsection (2), the City Attorney shall so notify the City Clerk who will, in turn, notify the complainant and respondent in writing.

(4) If the City Attorney determines that the complaint satisfies the three (3) elements in the immediately preceding Subsection (2), the City Attorney shall notify the City Clerk who will, in turn, notify the respondent in writing of the presumptive penalty in accordance with § 7-143(a) and that the respondent shall have seven (7) days from the date of the notice to submit written evidence of its cure or diligent efforts to cure the violation, including any amendments to any applicable report containing one or more deficiencies, modified campaign materials or other proof that the violation has been corrected. The respondent’s written response shall be due to the City Clerk no later than 5:00 p.m. on the seventh (7th) day. In the event the seventh (7th) day is a City holiday, the response shall be due no later than 5:00 p.m. the next business day.

(5) On receipt of the respondent’s written response, the City Attorney may, through the City Clerk, ask the respondent to provide more information and may grant the respondent an extension of time of up to seven (7) additional days to file an amended response regarding cure in order to respond to any such request.

(6) After the period for cure has expired, the City Attorney shall determine whether the respondent has cured any violation alleged in the complaint and, if so, whether respondent has substantially complied with its legal obligations under Chapter 7, Article 5, of this Code. In determining whether the respondent has substantially complied with its legal obligations, the City Attorney shall consider:

a. The extent of the respondent’s noncompliance;

b. The purpose of the provision violated and whether that purpose was substantially achieved despite the noncompliance; and

c. Whether the noncompliance may properly be viewed as an intentional attempt to mislead the electorate or election officials.

If the City Attorney determines the respondent has cured any violation or otherwise substantially complied with its legal obligations under Chapter 7, Article 5, the City Attorney shall so notify the City Clerk who, in turn, shall notify the complainant and the respondent and no penalty shall apply for the corresponding alleged violation or violations, as applicable.
If the City Attorney determines the respondent has not cured the alleged violation or otherwise substantially complied with its legal obligations, the City Attorney may conduct additional review or investigation of the allegations of the complaint to determine whether to file a complaint with the Municipal Court.

If the City Attorney files a complaint with the Municipal Court, the matter shall be governed by Article V of Chapter 19 of this Code.

A complainant or any other nonrespondent shall not be a party to the City Attorney’s initial review, cure proceedings, investigation, or any proceeding in the Municipal Court. A complainant may request permission from the Municipal Judge or their designee to file an amicus curiae brief.

Any person that commits a violation of shall be personally liable for the penalties imposed. Any candidate shall be personally liable for penalties imposed upon the candidate or the candidate’s committee and may use campaign contributions to pay penalties.

Section 8. That Section 7-146 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 7-146. Evaluation of campaign complaint.

(a) For those complaints that concern a criminal violation pursuant to § 7-143(b), if the City Attorney determines that no probable cause exists, that the complaint fails to allege an enforceable violation, or that the requirements of § 7-145 were not met by the complainant, the City Attorney shall so notify the City Clerk, who will, in turn, notify the complainant and respondent in writing.

(b) If the City Attorney determines probable cause exists, the City Attorney may notify Fort Collins Police Services, who, in consultation with the City Attorney, may file and serve a summons and complaint to the respondent.

(c) The City Attorney retains prosecutorial discretion on whether to ultimately file criminal charges. If the City Attorney determines filing a summons and complaint is inappropriate, he or she shall so notify the City Clerk, who will, in turn, notify the complainant and respondent in writing.

Section 9. That Section 7-150 of the Code of the City of Fort Collins is hereby deleted in its entirety and held in reserve.

Sec. 7-150. Action by complainant.

(a) After having received written notification from the City Clerk pursuant to § 7-146 that the City Attorney determined filing a summons and complaint is inappropriate, or after one
hundred eighty (180) days of filing the complaint, whichever is first, the complainant may bring a civil action in District Court.

(b) The complainant has one (1) year from the date of the violation to bring such suit.

(c) The complainant may sue to compel compliance with this Article, provided however, that complainant must first file a complaint with the City Clerk, pursuant to Section 7-145, and otherwise exhausts his or her administrative remedies.

(d) Any person who knowingly violates this Article may be civilly liable in an amount up to two thousand dollars ($2,000.), or, if applicable, three (3) times the amount of the discrepancy, whichever is greater.

(e) Reasonable attorneys’ fees for the prevailing party may be awarded if the amount of civil liability alleged is greater than seven thousand five hundred dollars ($7,500.).

(f) In determining the amount of civil liability, the court may take into account the seriousness of the violation and culpability of the defendant.

Introduced, considered favorably on first reading, and ordered published this 1st day of September, A.D. 2020, and to be presented for final passage on the 15th day of September, A.D. 2020.

______________________________
Mayor

ATTEST:

______________________________
City Clerk

Passed and adopted on final reading on this 15th day of September, A.D. 2020.

______________________________
Mayor

ATTEST:

______________________________
City Clerk
AGENDA ITEM SUMMARY
City Council

September 1, 2020

STAFF

Delynn Coldiron, City Clerk
Rita Knoll, Chief Deputy City Clerk
Ryan Malarky, Legal

SUBJECT

First Reading of Ordinance No. 112, 2020, Amending Section 7-135 of the Code of the City of Fort Collins to Modify and Update Requirements and Procedures for Campaigns in City Elections.

EXECUTIVE SUMMARY

The purpose of this item is to consider proposed amendments to the City’s election campaign Code provisions.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION

In 2015, Council formed an ad hoc committee to review, discuss and recommend changes to the City Code and Charter regarding elections and other related matters. In 2017, Council made the ad hoc committee a standing committee of the Council (the Election Code Committee or ECC) for the purpose of identifying and evaluating ideas for improvements to City election laws and practices and anticipating adjustments that may be needed to adapt to a rapidly changing legal and technological environment. Mayor Troxell and Councilmembers Pignataro and Summers are the current members of the ECC. Councilmember Pignataro serves as the Chair.

At the August 25, 2020 Work Session, Council reviewed recommended changes to Chapter 7 of the Code of the City of Fort Collins related to campaigns and campaign finance in City elections from the Election Code Committee. The items contained in this Ordinance represent the items the Election Code Committee did not reach consensus on. A work session summary is attached. (Attachment 1).

A summary of the proposed amendments follows:

Regulation of Limited Liability Company (LLC) Contributions:

Members of the public attending ECC meetings expressed some interest in aligning local City Code provisions with state law regarding the reporting of contributions by limited liability companies (LLCs). The ECC discussed such regulations and, while not coming to a consensus about whether to support them, the ECC determined it was appropriate to forward the matter to Council for its consideration. Under City provisions, an LLC is considered a "person", separate and distinct from a natural person. As such, a natural person can make the maximum allowed contribution to a candidate committee, and an LLC, of which the natural person is a member, may also make the maximum contribution to a candidate committee. Under state law, contributions from an LLC must be accompanied by a written statement that includes, among other things, information on how the contribution is attributed among the LLC members. The attribution to an individual member of the LLC then counts toward the aggregate contribution limit of the individual as a person.
Limitation of Contributions to Political Committees:

Members of the public attending ECC meetings expressed some interest in limiting contributions to political committees, similar to provisions in state law. Under state law, political committees support or oppose candidates and must register with the Secretary of State except in limited circumstances. Political committees may not accept more than $625 per contributor every two years. This two-year time period is not based on the calendar year but is instead tied to the state House of Representatives election cycle. Political committees may contribute to candidates subject to specific contribution limits for each public office. Political committees may also contribute a limited amount to other political committees and may donate an unlimited amount to independent expenditure committees.

The City Code currently does not limit contributions to a political committee but does not allow a political committee to make direct contributions to any type of committee. A political committee may only accept contributions or make expenditures to support or oppose one or more candidates. In addition, a political committee is prohibited from coordinating its expenditures with any other committee defined in the Code in a manner that circumvents any Code restrictions or limitations on campaign contributions, expenditures or reporting. After discussion of this issue, the ECC did not take a position on it. In this Ordinance, the limit for contributions to political committees is set at $100 per person, which is the same limit applicable to contributions to mayoral candidates.

A comparison chart is attached giving more information on the various types of committees the Code allows and some related information. (Attachment 2). A detailed memo previously given to Council providing clarification regarding the participation of political action committees and 527 groups in City elections and relationship to City political committees is also attached. (Attachment 3).

CITY FINANCIAL IMPACTS

Any financial impacts as a result of these amendments will be negligible.

PUBLIC OUTREACH

Meetings of the Election Code Committee are posted on the City’s website in advance of the meeting. Several members of the community regularly attend Committee meetings and provide input on topics on the agenda and other items of interest. Draft minutes from these meetings are attached. (Attachment 4)

ATTACHMENTS

1. Work Session Summary (PDF)
2. Campaign Committees Chart (PDF)
3. Political Committees Memo (PDF)
4. Election Code Committee Minutes (PDF)
MEMORANDUM

DATE: August 27, 2020

TO: Mayor Troxell and City Councilmembers

THRU: Darin Atteberry, City Manager
       Kelly DiMartino, Deputy City Manager

FROM: Delynn Coldiron, City Clerk

RE: 08-25-2020 Work Session Summary: Possible Election Code Amendments

Councilmembers Present: Mayor Troxell, Mayor Pro Tem Stephens, Councilmembers Cunniff, Pignataro, Gorgol, Gutowsky and Summers.

Overview:

Staff presented recommendations from the Election Code Committee (ECC) on proposed election-related Code amendments, including:

1. Elimination of non-itemized contributions
2. Use of unexpected city campaign funds in non-city elections
3. Carry-over of Candidate Committee contributions to the next election cycle
4. Changes to the campaign finance violation process

Staff also presented information about two issues that had been discussed by the ECC for which no recommendation had been made:

5. Regulation of Limited Liability Company contributions
6. Limitation of contributions to Political Committees

Staff also presented one “clean up” change that had not been considered by the ECC:

7. Financial Disclosure statement filing

Council Discussion:

Most Councilmembers expressed full agreement with all items that the ECC had reached consensus on. Those items will move forward as part of the Consent Agenda at the next regular meeting. Councilmembers asked for an additional opportunity to discuss regulation of Limited Liability Company contributions and placing limitations on contributions to Political Committees. They requested that these items move forward under a separate ordinance and be placed on the Discussion Agenda as soon as possible. Council was appreciative of the work that had been done by the ECC and staff related to these items. They particularly liked the new civil penalty process that allows for less severe consequences for most campaign violations.
Follow Up:

Staff plans to bring both ordinances to Council at their September 1, 2020 regular meeting. Discussion on potential Charter changes are planned for the December 8, 2020 Work Session.
# CAMPAIGN COMMITTEE COMPARISONS

<table>
<thead>
<tr>
<th>Category</th>
<th>Definition - Purpose</th>
<th>Registration Required?</th>
<th>Reports Required?</th>
<th>“Paid for By” Required?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Candidate Committee</td>
<td>One or more persons for common purpose of receiving contributions or making expenditures under authority of candidate; open and active until terminated.</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>Political Committee</td>
<td>Two or more persons associated for common purpose of accepting contributions or making contributions to support or oppose one or more candidates OR Any person accepting contributions for that purpose.</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>Small-Scale Issue Committee</td>
<td>Two or more persons associated for common purpose of accepting contributions or making contributions to support or oppose any ballot issue or ballot question OR Any person accepting contributions for that purpose.</td>
<td>NO until $200 rec’d or spent</td>
<td>NO until $200 rec’d or spent</td>
<td>NO until $200 rec’d or spent</td>
</tr>
<tr>
<td>Issue Committee</td>
<td>Two or more persons associated for common purpose of accepting contributions or making contributions to support or oppose any ballot issue or ballot question OR Any person accepting contributions for that purpose.</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>Independent Expenditure</td>
<td>Payment of money by other than a committee to advocate the election, defeat or recall of a candidate or supporting or opposing a ballot issue or ballot question. (Excludes news articles or other unpaid public media, expenditures in the regular course of scope of business by an organization to its members/employees.)</td>
<td>NO</td>
<td>NO</td>
<td>YES, if total more than $250</td>
</tr>
</tbody>
</table>
June 25, 2020

TO: Mayor Troxell and City Councilmembers

THRU: Darin Atteberry, City Manager
       Kelly DiMartino, Deputy City Manager
       Carrie Daggett, Attorney

FROM: Ryan Malarky, Assistant City Attorney
       Delynn Coldiron, City Clerk

RE: Clarification regarding the participation of political action committees and 527 groups in City elections and relationship to City “political committees”

This memorandum responds to questions raised by City Council at its June 2, 2020, meeting and subsequently discussed briefly by the Election Code Committee at its June 5, 2020, meeting. At the June 2nd Council meeting, some Councilmembers mentioned “political action committees” and “527 groups,” and Councilmembers asked for clarification about what the City Code requires with respect to the participation of political action committees and 527 groups in City elections. There was also a request for clarification as to whether the Code contains limits on contributions to political committees and whether political committees can coordinate with candidate committees.

The Bottom Line provides answers to these specific questions, while the Discussion provides an overview of the Code requirements for political committees. In addition, a chart outlining the types of committees established under the City’s campaign finance provisions and related requirements and restrictions is attached. The City Clerk’s Office and the City Attorney’s Office will keep these questions in mind and suggest additional clarifying Code language as Code changes are prepared for City Council this summer.

Bottom Line:

1. A “political action committee” (“PAC”) is an entity regulated at the federal level by the Federal Elections Commission. The term encompasses several different types of committees or associations, including but not limited to separately segregated funds of corporations or labor organizations, Super PACs, and Leadership PACs. The State of Colorado does not expressly
regulate PACs. However, to the extent a PAC’s conduct meets the state definition of a political committee, the PAC must register and comply with requirements for political committees.

“527 groups” are political organizations that are tax-exempt under the federal Internal Revenue Code, and which are organized to support or oppose candidates. In certain instances, the State does require 527 groups to register as “political organizations.”

The City Code does not specifically address PACs or 527 groups. However, to the extent PACs or 527 groups involve themselves in City elections and their conduct meets the City Code’s definition of a political committee, the Code requires that such organizations register and comply with the reporting requirements for a political committee. If a group does not fall within the City’s definition of “political committee”, expenditures in City elections would fall under the requirements for independent expenditures.

2. The City Code establishes various types of campaign committees, including “political committees” and does not limit the amount of contribution that can be made to political committees.

3. City Code Section 7-135(h) prohibits candidate committees, issue committees, small-scale issue committees and political committees from coordinating expenditures with other such committees in a way to avoid the restrictions on campaign contributions, expenditures or reporting. In addition, the Code amendments in 2018 were intended to preclude contributions by political committees to other committees. Because it would likely be helpful to include a more explicit statement in the Code that political committees are prohibited from coordinating campaign efforts with candidate committees and from making contributions to other committees, additional language reinforcing this prohibition will be included as part of upcoming amendments to the campaign finance provisions planned for later this summer.

Discussion:

The Colorado Fair Campaign Practices Act (“FCPA”) was enacted at the state level in January 1997, replacing the former Campaign Reform Act. The focus of campaign regulations in state law has historically been written with a focus on the regulation of state candidates, followed by county candidates. Many of the provisions of the FCPA are not relevant to municipal candidates.

In November 2000, the City of Fort Collins, as a home-rule municipality, adopted its own campaign finance laws in lieu of those contained in state law. It was the stated intent of the City Council to “entirely occupy the field of regulating the conduct of City elections and . . . the campaign activities of persons who are seeking local elective office or supporting or opposing local ballot issues or contributing to the political campaigns relating to such candidates or issues.” At the time, the local laws were modeled after language contained in the FCPA, excluding provisions, or portions thereof, that were not relevant in municipal campaigns.
Local Definition of Political Committee

When City’s campaign laws were enacted in 2000, the definition of “political committee” in the City Code read as follows:

*Political committee* shall mean two (2) or more persons who are elected, appointed, or chosen, or have associated themselves, for the purpose of making contributions to candidate committees, issue committees, or other political committees, or for the purpose of making independent expenditures. *Political committee* shall not include issue committees, or candidate committees as otherwise defined in this Section.

This language mirrored the original definition in the FCPA with the exclusion of a reference to political parties.

The definition remained unaltered in the City Code until September 2018 when it was amended in the following manner:

*Political committee* shall mean:

(1) Two (2) or more persons who are elected, appointed or chosen, or have associated themselves, for the purpose of accepting contributions or making expenditures to support or oppose one (1) or more candidates to candidate committees, issue committees or other political committees, or for the purpose of making independent expenditures.

(2) Any person that has accepted contributions for the purpose of supporting or opposing one (1) or more candidates.

*Political committee* shall not include:

(1) Issue committees or candidate committees as otherwise defined in this Section, or

(2) Any partnership, committee, association, corporation, labor organization or other organization or group of persons previously established for a primary purpose outside of the scope of this Article.

The 2018 amendments were intended to better define a political committee and remove any overlap with other committees or types of expenditures. In particular, the 2018 amendments:

- Made clear that two or more persons who either take contributions or make expenditures to support or oppose candidates must register as a political
Mayor Troxell and City Councilmembers
June 25, 2020
Page 4 of 4

committee. Previously, registration was not required until such persons received contributions and made expenditures.

- Made clear that any person that accepts contributions to support or oppose candidates must register. The Code broadly defines a person as any individual, partnership, committee, association, corporation, labor organization or other organization or group of persons.
- Made clear that candidate committees will not also be considered political committees.
- Removed the language allowing political committees to make contributions to other committees.
- Limited activities of a political committee to supporting or opposing candidates.
- Eliminated the ability of political committees to make independent expenditures.
- Removed language that excluded from the registration requirements any partnership, committee, association, corporation, labor organization or other organization or group of persons previously established for a primary purpose outside of the scope of the City’s campaign regulations from the definition of political committee.

City Code Section 7-135(h) prohibits candidate committees, issue committees, small-scale issue committees, and political committees from coordinating expenditures with other such committees to circumvent any restrictions or limitations in the Code on campaign contributions, expenditures or reporting requirements. Independent expenditures are, by their definition, not coordinated with a candidate committee. The same holds true in the FCPA and related provisions in the Colorado Constitution.

The Colorado Constitution does set a limit on contributions that can be made to, and accepted by candidate committees, including contributions made by political committees, under the State campaign finance regulatory system. Since the City does not allow political committees to make contributions to candidate committees, there is no direct comparison. Both the Colorado Constitution and City Code allow political committees to make direct expenditures supporting candidates.

In order to make more explicit both of these points (both coordination by political committees and payments by political committees to other committees are prohibited), staff will include language to that effect in the Code amendments coming forward later this summer for Council’s consideration.

Attachment
Person making an Independent Expenditure

- **Independent expenditure** means the payment of money by any person for the purpose of advocating the election, defeat or recall of a candidate, which expenditure is not controlled by, or coordinated with, any candidate or any agent of such candidate. Independent expenditure includes expenditures for political messages which unambiguously refer to any specific public office or candidate for such office. Independent expenditure also includes the payment of money by any person for supporting or opposing a ballot issue or ballot question that is not controlled by, or coordinated with, an issue committee or a small-scale issue committee. Independent expenditure shall include, but not be limited to, advertisements placed for a fee on another person’s website or advertisement space provided for no fee or a reduced fee where a fee ordinarily would have been charged.

- **Independent expenditure** shall not include:
  1. Expenditures made by persons in the regular course and scope of their business and political messages sent solely to their members;
  2. Expenditures made by small-scale issue committees; or
  3. Any news articles, editorial endorsements, opinion or commentary writings, or letters to the editor printed in a newspaper, magazine or other periodical not owned or controlled by the candidate, or communications other than advertisements posted or published on the internet for no fee.

<table>
<thead>
<tr>
<th>Definition</th>
<th>Registration required?</th>
<th>Required to File Campaign Finance Reports?</th>
<th>Can Accept Contributions?</th>
<th>Can Make Contributions to Other Committees?</th>
<th>Can Make Expenditures?</th>
<th>Subject to “Paid for By” requirement?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Candidate Committee</td>
<td>A person, including the candidate, or persons with the common purpose of receiving contributions or making expenditures under the authority of a candidate. A candidate shall have only one (1) candidate committee. A candidate committee shall be considered open and active until the committee has filed a termination report with the City Clerk.</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes Councilmember candidate- $75/person Mayoral candidate- $100/person</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>Political Committee</td>
<td>(1) Two (2) or more persons who are elected, appointed or chosen, or have associated themselves, for the purpose of accepting contributions or making expenditures to support or oppose one (1) or more candidates. (2) Any person that has accepted contributions for the purpose of supporting or opposing one (1) or more candidates. Political committee shall not include candidate committees as otherwise defined in this Section.</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>Small-scale Issue Committee</td>
<td>A committee otherwise meeting the definition of issue committee that has accepted or made contributions or expenditures in an amount that does not exceed five thousand dollars ($5,000.) during an applicable election cycle for the major purpose of supporting or opposing any ballot issue or ballot question. Once a small-scale issue committee accepts contributions/makes expenditures in excess of $5,000, the small-scale issue committee must register as an issue committee and file reports about the contributions or expenditures it has made or received since the beginning of its existence as a small-scale issue committee. (See Issue Committee)</td>
<td>Not until it accepts contributions/makes expenditures in an aggregate amount that exceeds $200</td>
<td>Not until it accepts contributions/makes expenditures in an aggregate amount that exceeds $5000 (and then they become an issue committee)</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>Issue Committee</td>
<td>(1) Two (2) or more persons who are elected, appointed or chosen, or have associated themselves, for the purpose of accepting contributions or making expenditures to support or oppose any ballot issue or ballot question; or (2) Any person that has accepted contributions for the purpose of supporting or opposing any ballot issue or ballot question. Issue committee shall not include small-scale issue committees as otherwise defined in this Section.</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
</tr>
</tbody>
</table>

**Person** means any individual, partnership, committee, association, corporation, labor organization or other organization or group of persons.
September 6, 2019

ELECTION CODE COMMITTEE MEETING

3:30 PM

COUNCILMEMBERS PRESENT: Troxell, Pignataro, Summers (via telephone),
STAFF PRESENT: Ryan Malarkey, Delynn Coldiron, Rita Knoll, Sara Gonzales
CITIZENS PRESENT: Marge Norskog, Jody Deschenes, Robbie Moreland, Roxanne Griffin, Dale Karchin, Suzanne Trask, David Turk, Kathryn Secor, Mike Feldhousen, Karen Wagner, Jen Rossi

1. CALL MEETING TO ORDER

Mayor Troxell called the meeting to order.

2. ELECTION OF COMMITTEE CHAIR

Council member Pignataro expressed interest in being the Committee Chair. Mayor Troxell and Councilmember Summers accepted the nomination.

3. CITIZEN COMMENT

Marge Norskog discussed the role of the City Clerk’s Office in elections-to cover the election process and two election management tasks: to answer questions when asked and to take action if a report is not filed on time. She noted the Office was denied additional funding in 2019 to expand election management. She discussed the 18 complaints she and others filed in the April 2019 election, all of which were based on observations. Moving forward, Ms. Norskog stated small scale issue committees should be required to report the zero to $199 spent once they reach the $200 threshold that requires reporting. Independent expenditures under $250 are currently exempt from “paid for by” requirements, which causes a loophole in anonymous speech. Additionally, someone convicted of a felony who has since had their voting rights restored should be able to run for Council and suggested the election software be able to accommodate online reporting by campaigns and committees and support ranked choice voting.

Robbie Moreland stated it is important that consistent oversight is given to ensure election code is being followed. She reviewed financial disclosures for the past three April elections and requested the Committee consider addressing non-itemized contributions or donations under $20 to clarify their proper use and purpose. She requested the Committee address campaign donations from LLCs. She would like the City’s Election Code to match that of the state in order to ensure that individuals no longer have an advantage over others through the use of multiple LLCs.

Karen Wagner expressed concern about low voter turnout and questioned why the Committee has gone so long without meeting. She requested the Committee have a regular monthly meeting.

Jan Rossi expressed concern there is no campaign compliance oversight.

Roxanne Griffin stated the citizens of Fort Collins have the right to know who is paying for political advertisements, including independent expenditures. Transparency plays a key role in a voter’s ability to evaluate the merits of political campaign messaging. She requested the Committee consider future steps needed to ensure transparency and compliance with Election Codes.

Jody Deschenes requested the Committee address guidelines for election office employment or ineligibility thereof. She would like to help elevate the City’s election process and stated there should be a higher standard of transparency. She discussed her group’s three areas of focus: independent, fair, and transparent redistricting, ranked choice voting, and taking any and all measures necessary to mitigate the negative influence of money on campaigns, elections, and government. She will be submitting three resolutions related to these issues.

Councilmember Summers thanked the citizens who spoke and stated requiring “paid for by” statements on web pages and social media is a way to catch people doing misdeeds. He suggested the focus needs to be on other issues. He stated Fort Collins’ $75 maximum contribution limit may be lowest of any city in
Colorado; therefore, transparency concerns should focus more on flyers and robocalls. He would support on-line reporting but opposed ranked choice voting.

Mayor Troxell thanked the speakers and stated that, while transparency is important, he believes the complaint-based system has worked and he would be concerned about implementing changes that would dissuade candidates from participating.

Councilmember Pignataro asked if it would be appropriate for the Committee to make a decision on LLCs as all three of their names appear on the list of candidates with LLC donations. Chief Deputy City Clerk Knoll noted the Committee would be making a recommendation to Council with Council being the body that would ultimately make any changes to the Election Code.

Councilmember Pignataro asked about the scheduling of the Committee meetings. City Clerk Coldiron replied the meetings have been set for every other month for the rest of the year; however, that can be adjusted as necessary.

4. APPROVAL OF AUGUST 2, 2018 COMMITTEE MEETING MINUTES

Mayor Troxell made a motion, seconded by Councilmember Summers, to adopt the August 2, 2018 Committee meeting minutes. The motion was adopted by unanimous consent.

5. DISCUSSION ITEMS

a. Review of the scope of the Election Code Committee and past accomplishments

Assistant City Attorney Ryan Malarkey discussed the history of the Election Code Committee and various Election Code changes made by Council, after recommendation by the Committee.

Councilmember Pignataro asked how far prior to an election any Election Code changes need to be put into place. Chief Deputy City Clerk Knoll replied they would ideally be in place by September.

Mayor Troxell requested feedback on changes that were made prior to the April 2019 election. Chief Deputy City Clerk Knoll replied the additional required campaign finance reports placed a stress on the workload, as did the large number of candidates. She also noted there were additional ballot processing requirements that needed to be implemented, including signature verification and a new tabulation system.

City Clerk Coldiron commented on the relationship with the County which provides County workers in the City Clerk’s Office to help with registrations and other issues. The County is also considering letting the City use its ballot box.

Chief Deputy City Clerk Knoll stated the marketing campaign appeared to have been successful in getting people to check registrations early which decreased the walk-in traffic. She discussed the changes made relating to UOCAVA voters and to extending the time for signature discrepancies to be cured.

Mayor Troxell commended the election and its transparency given the number of new processes. He stated he would be slow to act in making additional changes citing the importance of predictability and stability.

Councilmember Summers stated he could find some interesting results that would come from ranked voting at a local level.

Councilmember Pignataro asked if there are clear guidelines about impartiality for election workers. Chief Deputy City Clerk Knoll replied that had not typically been an issue; however, a complaint was received from a candidate related to contact from Ms. Deschenes which is why she was not selected for election employment. She stated staff has determined a more complex application and vetting process will occur in the future.

City Clerk Coldiron stated staff will work with Human Resources and the City Attorney's Office to formalize the election worker hiring process.
b. Overview of April 2019 election

Chief Deputy City Clerk Knoll discussed turnout numbers, noting the number of registered voters is constantly changing. Receiving 32,000 ballots for a local election is a good turnout. She reviewed the election worker roles, overseas voter numbers, signature discrepancy corrections, new processes and equipment, campaign law changes, and election cost.

Councilmember Pignataro asked if it is a requirement that ballots first go to Denver for processing through the mail. Chief Deputy City Clerk Knoll replied in the affirmative but noted there is an agreement in place with the Fort Collins post offices to hold any ballots they get on Election Day.

c. Background on recent changes to Election Code

City Clerk Coldiron reviewed changes made to the Election Code prior to the April election. She also reviewed the complaints received during the election, stating two, relating to “paid for by” requirements on flyers, yard signs, campaign websites and a Facebook page, have been forwarded for additional investigation.

Councilmember Pignataro asked why other complaints related to a Facebook pages have been dismissed while one remains. Assistant City Attorney Malarkey replied he could not make detailed comments as the investigation is ongoing.

Chief Deputy City Clerk Knoll noted Fort Collins, as a home-rule city, does not follow the majority of state laws regarding campaign finance.

Mayor Troxell opposed the severity of the penalty associated with “paid for by” violations and suggested the Committee consider alternatives. Councilmember Pignataro agreed and suggested the inclusion of additional language in candidate guidelines.

d. Review of proposed amendments to District-Precinct Map and possible recommendation to be included in September 17 Council Agenda Item

Chief Deputy City Clerk Knoll presented a draft agenda item for the September 17 Council meeting related to precinct changes made by the County. She noted the changes do not affect Council districts.

Mayor Troxell made a motion, seconded by Councilmember Summers, to recommend adoption of the amendment to the City precinct map based on the County's precinct changes. The motion was adopted unanimously.

e. Redistricting study overview

City Clerk Coldiron stated this communitywide redistricting effort was approved as part of the last budget cycle and noted the last redistricting was done in 2016. She stated redistricting must occur when there is a 10% or greater population variation between the most populous district and the least populous district, which in this case are Districts 1 and 4.

City Clerk Coldiron stated the redistricting study will result in an analysis of the current population-based methodology and ideas for others, evaluation of a possible district configuration, a robust public engagement effort, and multiple redistricting options. She noted the hired consultant will aid in the entire process and be present to answer questions. Staff would like to draft a request for proposal for the Committee to consider at its next meeting and begin work in February with Council consideration in November or December of next year.

Councilmember Pignataro asked how a consultant will be chosen. City Clerk Coldiron replied a staff committee will be formed to review the requests for proposal submissions and the Committee will be kept informed along the way.

Councilmember Summers suggested a November review by Council in order to provide additional time for potential candidates who may run in the April election. City Clerk Coldiron noted the new district boundaries will not go into effect until 2023 as census data will not be reported until 2021.
6. FUTURE TOPICS

What topics does the committee wish to explore as part of its work plan?

Councilmember Pignataro asked if Committee members could send suggestions to staff for compilation prior to the next meeting.

7. OTHER BUSINESS

None.

8. ADJOURNMENT

The meeting adjourned by unanimous consent at 5:00 PM.
November 15, 2019

ELECTION CODE COMMITTEE MEETING

3:45 PM

COUNCILMEMBERS PRESENT: Troxell, Pignataro, Summers
STAFF PRESENT: Carrie Daggett, Ryan Malarkey, Delynn Coldiron, Rita Knoll, Sara Gonzales
CITIZENS PRESENT: Marge Norskog, Robbie Moreland, Kathleen Schmidt, Kevin Jones

1. CALL MEETING TO ORDER

Mayor Troxell called the meeting to order.

2. CITIZEN COMMENT

Marge Norskog stated this committee provides a great deal of experience to determine how best to provide oversight for elections going forward. She discussed a new Colorado law: the Campaign Finance Enforcement Code. She stated the Secretary of State is actively creating a campaign enforcement group within its office and encouraged the City to examine a similar process.

3. APPROVAL OF SEPTEMBER 6, 2019 COMMITTEE MEETING MINUTES

Councilmember Summers made a motion, seconded by Mayor Troxell, to adopt the September 6, 2019 Committee meeting minutes. The motion was adopted by unanimous consent.

4. DISCUSSION ITEMS

a. “Fishbowl” donations - Require greater detailed reporting or not allow this type of campaign contribution?

Chair Pignataro stated these types of donations added up to over $500 in the last election. City Attorney Daggett noted it is challenging to have anonymous donations where you have individual contribution limits; therefore, it may be necessary to have some type of tracking for these donations.

Councilmember Summers stated people try to find ways around the rules and money is pushed out of the control of the candidate when more rules are in place. Campaigns should track individual donations regardless of the amount so it can be reported when the threshold is met. Candidates want to know who is contributing to their campaigns and suggested not allowing “fishbowl” donations may be the appropriate solution.

Mayor Troxell stated this type of donation does not seem to function with the maximum donation amounts.

Chair Pignataro asked about the language around anonymous donations. Chief Deputy City Clerk Knoll stated any donation under $20 is non-itemized and not reported. A solution would be to not allow non-itemized contributions.

Mayor Troxell supported that solution and asked what constitutes a Charter change with regards to elections. City Attorney Daggett replied there is a Charter provision that prohibits employee contributions to Council candidate campaigns and prohibits contributions from organizations contracting with the City. She also stated ranked voting would also be a Charter amendment and the remainder of the items on this agenda would be Code changes.

City Attorney Daggett noted there has been some discussion about the Charter provision related to not being able to hold office if convicted of a Code violation during an election. She noted Code changes would likely be able to address the concerns about the Charter provision and she reviewed items that could be viewed as criminal versus civil infractions in the election-related Code language.

Chair Pignataro stated eliminating anonymous donations would solve the “fishbowl” contribution issue.
b. Review of the complaint and enforcement procedures and penalties for election code violations.

Chair Pignataro stated the review of the complaint and enforcement procedures and penalties for election code violations would be a much longer effort.

Councilmember Summers stated the significant changes that were made after the 2017 election that applied to the 2019 election should be reviewed. He opposed the “paid for by” requirement for yard signs and stated some of the changes may have been overcorrections. Most of the 2019 election complaints were frivolous, bogus, and inconsequential.

Chair Pignataro stated the “paid for by” requirement began because of mailers that were funded by outside money. She agreed with Councilmember Summers that some of the changes may be overreaching.

Councilmember Summers opposed the requirement for two signatures on joint checking account checks. He stated several of the City's requirements do not even apply at the state level. He expressed concern that taking the control of the campaign out of the candidates' hands diverts it to outside groups.

Mayor Troxell supported adopting a minimalist, candidate-focused, transparent process. He supported doing away with anonymous donations.

Councilmember Summers stated there should be a right to cure things that are deficient in election reporting, such as missing addresses. Knoll replied the Clerk's Office does not review reports at that level of detail; however, if it is brought to the attention of the Clerk, the candidate is told and is able to file an amended report.

Chair Pignataro asked if the priority of this item is changed by Council as a whole bringing it up under Other Business. Knoll replied Council will consider a draft ordinance and recommendation from this committee.

Councilmember Summers stated anything short of misappropriation of funds should not be viewed as a criminal activity.

City Attorney Daggett suggested staff return with options and recommendations.

c. Ranked Choice Voting-pros and cons for our community.

Chair Pignataro noted ranked voting could not be in place by the next election; therefore, while it is still important to discuss, it is not necessarily a priority at this time. She stated ranked voting could even the playing field a bit.

Councilmember Summers discussed his experience with ranked voting and stated he essentially supports the “one vote, one person” philosophy. He noted there could be a large confusion factor for voters and stated ranked voting may not add a great deal of value to city elections.

Mayor Troxell stated there is no existing problem that would be fixed by ranked voting. He noted some areas that have implemented ranked voting have now done away with it.

d. Restrictions on employees and contractors from participating in City elections.

City Attorney Daggett stated staff will likely want to provide more detail on this topic as the discussion progresses. She stated the employee issue is separate from the contractor issue and stated staff is recommending Council consider asking voters to remove the restrictions on contracting organizations in light of Citizens United as there is some question as to whether the prohibition is consistent with how the law has developed. She noted that would be a Charter provision change and stated the committee may need an executive session to fully discuss legal ramifications.

City Attorney Daggett noted the employee contribution prohibition only applies to candidate elections, but employees can participate in issue elections on a personal level.
Chair Pignataro noted the City is one of the largest employers in Fort Collins and stated not allowing employees to participate is difficult for candidates.

City Attorney Daggett noted City Manager Atteberry may want to be involved in this discussion related to concerns about relationships employees may have developed with candidates to whom they have contributed.

e. Campaign naming and carry-over for returning candidates.

Chair Pignataro noted this item relates to using a different campaign name for each election. She expressed concern that this could be wasteful in terms of campaign materials.

Councilmember Summers stated campaigns are active until they are closed at the state level.

Chair Pignataro asked what issues are being faced by the City Clerk's Office that would drive the need for different campaign names. Deputy City Clerk Gonzales replied donations are tied to committee names and it is difficult to determine which campaign is associated with which donations if the campaign name remains the same. She noted funds can be carried over from one committee to the other; however, the itemized items do not carry over.

Councilmember Summers suggested utilizing dates to differentiate campaigns.

Mayor Troxell noted issue committees and candidate committees may need to be treated differently. Gonzales replied issue committees are required to terminate and candidate committees must be reopened for each election, though they can remain open with an annual reporting requirement.

f. Possible alignment with state law regarding LLC election contributions.

Councilmember Summers stated the state law requires a report, which is only held by the candidate, outlining contributions made by an individual and their LLC.

City Attorney Daggett stated it could become cumbersome to attempt to attribute a donation equally among all members of an LLC.

Chair Pignataro stated City elections have a low per person donation limit for a reason and allowing LLC contributions seems to go against that.

Councilmember Summers stated higher contribution limits may be needed in order to avoid LLC contributions.

Chair Pignataro stated she would like to have staff prepare information related to pros and cons of the state regulations.

5. Continuation of Election Code Committee

City Attorney Daggett stated this item has come about as there may be enough interest on the part of the entire Council on some items that a work session may be a better way to proceed with a discussion.

City Clerk Coldiron stated there was also some thought that the amount of changes already made may need to be digested and assessed prior to making more changes.

Members discussed items that they would like to consider in January.

6. OTHER BUSINESS

Chair Pignataro encouraged the Clerk's Office to make scanned reports searchable PDFs.
7. ADJOURNMENT

The meeting adjourned by unanimous consent at 5:14 PM.
January 10, 2020

ELECTION CODE COMMITTEE MEETING

3:31 PM

COUNCILMEMBERS PRESENT: Troxell, Pignataro, Summers
STAFF PRESENT: Carrie Daggett, Ryan Malarkey, Delynn Coldiron, Rita Knoll, Sara Gonzales
CITIZENS PRESENT: Robbie Moreland, Jody Deschenes, Anne Thompson, Sam Houghteling, Eric Sutherland

1. CITIZEN COMMENT

Robbie Moreland stated Secretary of State regulations state that campaign contributions made as a member of an LLC counts toward contribution limits for that individual; however, City law allows an individual to make contributions under their own name as well as through their LLCs. She opposed the City provisions, as LLCs are not individuals and do not receive a ballot to vote. She requested the City develop a way to align contributions limits for LLCs with the state requirements. She expressed support for ranked choice voting, is interested in the continued discussion on non-itemized contributions under $20, and requested the Committee recommend doing away with anonymous donations altogether.

Jody Deschenes expressed support for the City adopting Colorado's rules regarding campaign contributions from individuals and LLCs. She also supported independent redistricting and requested an update on the timeline for hiring an independent redistricting consultant following the 2020 census. She supported eliminating anonymous or non-itemized contributions under $20 and supported ranked choice voting.

Chair Pignataro noted she had previously requested staff prepare pro and con information regarding possible alignment with state LLC contribution provisions and requested an update. Gonzales replied that topic will be discussed at the February meeting.

Mayor Troxell requested information regarding the LLC provisions related to a home rule municipality. City Attorney Daggett replied the City has its own set of campaign finance rules and would need to adopt something different to match the state provisions.

Councilmember Summers stated it is important not to pick and choose what the City models locally after the state guidelines. He asked if the intent is to make it more difficult to run for City Council than for the State House or State Senate.

Chair Pignataro replied she would like to look at pros and cons of changing the regulations.

Councilmember Summers stated he would like to look at the state model for donations from couples. He noted the Fort Collins model is more restrictive than state law for couples to donate to a candidate.

Mayor Troxell discussed the importance of identifying goals to be achieved prior to making changes.

Chair Pignataro noted ranked choice voting would require Council to vote to place the item on a ballot as it is a Charter change. Knoll noted the only option to have that in place for the next City election would be to place it on the November 2020 ballot.

Councilmember Summers stated it would be helpful to have an analysis of how many elections had more than 2 candidates when looking at ranked voting. Knoll replied she would provide a spreadsheet of the number of candidates in each race for each election and data on whether the winning candidate acquired more than 50% of the vote.

Mayor Troxell discussed the recent ethics complaint regarding Mayor Pro Tem Stephens and his participation in the Hughes Stadium site rezoning and stated it is false to claim issue committee donations are related to individual campaigns as was suggested as part of that complaint.
2. APPROVAL OF NOVEMBER 15, 2019 COMMITTEE MEETING MINUTES

Mayor Troxell made a motion, seconded by Councilmember Summers, to adopt the November 15, 2019 Committee meeting minutes. The motion was adopted by unanimous consent.

3. DISCUSSION ITEMS

a. Review past Election Code changes, grouped by themes - Discussion of which areas the Committee would like to see amended

Councilmember Summers stated the definition of a Candidate Committee was changed to specify the common purpose is to receive contributions or make expenditures rather than and make expenditures and asked why that change was made. City Attorney Daggett replied that change was made realizing candidate committees would not technically meet the definition of a candidate committee until it started spending money.

Councilmember Summers suggested some context may be missing related to the candidate committee language. Knoll replied both contributions and expenditures were required to meet the definition of a candidate committee when the language was first written; however, there could be a situation in which the candidate funds the committee totally by loaning the campaign money, which is not technically a contribution, but is a loan. This would mean expenditures could be made, but contributions were not received, and the proposed language would allow a candidate committee to either receive contributions or make expenditures, or both.

City Attorney Daggett stated the language could be revisited as necessary.

Councilmember Summers asked if an individual could run for Council and not have a candidate committee. City Attorney Daggett replied candidate committees are defined as "a person, including the candidate, or persons with a common purpose, of receiving contributions, making expenditures, under the authority of the candidate"; therefore, the definition is written to include the candidate as a person. She stated it is a requirement of the candidate to have a committee unless there is no money being contributed.

Councilmember Summers asked if there is a time limit for which candidates are required to retain copies of public communication, invoices, receipts, and other instruments of payment. Gonzales replied it is for a year unless a complaint has been filed, then items must be kept until after its resolution.

Councilmember Summers asked if it must be counted as a contribution if someone from an individual's campaign committee voluntarily sets up the candidate’s webpage. City Attorney Daggett replied certain items online are free, and other things are not; therefore, it would depend on whether the page was placed on a hosted site or one that could be freely used. She stated this section prohibits different rates being given to certain candidates over others.

Councilmember Summers stated there may have been some confusion prior to the requirement that independent expenditures must have a "paid for by" declaration. City Attorney Daggett replied most of the confusion was on the part of complaining parties, and it was made clear that new regulations such as this do require a fair amount of education. She stated there is opportunity to continue improving the education around the requirements.

Chair Pignataro asked if the Code language indicates “paid for by” statements are required when money or in-kind donations are exchanged. Assistant City Attorney Malarky noted a trigger for the use of “paid for by” is when a candidate or committee makes an expenditure. City Attorney Daggett stated the Code language includes examples of items that are understood to be impractical for a notice requirement.

Mayor Troxell asked if this section could include something about social media. City Attorney Daggett replied the language does say communication shall include, but is not limited to, websites or social media of a candidate committee, issue committee, or small-scale committee, if and to the extent they are financed by independent expenditures.

Chair Pignataro clarified the requirement would apply to ads purchased on Facebook, for example, but not to posts on personal pages.
City Clerk Coldiron noted there may be some confusion and question as to what is impractical for the “paid for by” requirement.

City Attorney Daggett mentioned the question as to whether materials from previous elections, such as yard signs, should be required to have the “paid for by” notation.

Councilmember Summers questioned why “paid for” declarations are required. Knoll replied this came from a request from citizens because there were very negative ballot materials against another candidate sent out in the April 2017 election that appeared to be from the candidate's campaign, and it was difficult to identify who had sent it.

Councilmember Summers stated that kind of issue should be the focus of what needs to be solved with a “paid for by” requirement.

Chair Pignataro stated she would like to see this requirement used through one more election cycle before making any amendments.

Mayor Troxell agreed.

b. Possible Election Code Changes-Review of draft Code Amendments

1. Elimination of anonymous donations

Malarky stated the direction staff received from the Committee was to eliminate all anonymous donations; therefore, the $20 threshold has been eliminated in the draft language so any donation amount would need to be tracked and recorded.

Mayor Troxell stated this requirement may make things simpler. City Attorney Daggett noted this requirement would eliminate the possibility that someone could make multiple small donations that would not be tracked under the previous regulations.

Chair Pignataro noted she would want to know who is supporting her as a candidate.

The Committee supported the proposed language on this issue.

2. Use of unexpected City election candidate contributions in a non-City election

Chair Pignataro stated she does not want this to appear as if it is being done for a specific candidate and asked if a similar provision exists at the state level.

Councilmember Summers replied funds can be rolled over among state campaigns. He noted new committees must be formed if the campaigns are for different offices on different levels.

Mayor Troxell noted unexpended campaign funds can now go to non-profits and other entities and suggested a campaign for another position should also qualify under that category.

Councilmember Summers asked if leftover campaign funds are considered the candidate’s funds when being transferred from one year's campaign to another. City Attorney Daggett replied there would not be a limit on the transferred amount.

3. Carry-over of unexpended candidate contributions to the next election cycle and the ability of the committee to keep its same name

Malarky stated this item was intended to address a concern that was raised about having to develop a new committee name. The Election Code Committee provided direction that candidates be able to retain the same committee names. Knoll suggested committee names could be amended with the knowledge and documentation that the committee is the same.
4. Addition of a cure period for respondents in the campaign violation process

Malarky outlined the language for this proposed change.

Mayor Troxell asked about the repercussions for campaign violations that are not corrected. Malarky replied there would then be a determination made either by the City Attorney's Office or outside counsel regarding whether further investigation or prosecution is warranted.

5. Removal of the citizen enforcement mechanism in District Court

City Attorney Daggett stated the current Code allows the complaining party to file a case in District Court should the City's prosecutor chose not to pursue prosecution of a violation. Staff recommends removing this ability from the Code based on questions of constitutionality in recent court cases. She outlined a complaint received regarding an election which was ultimately reviewed and determined to not merit further investigation. She stated the citizen was frustrated with the time it took to investigate the complaint.

Chair Pignataro asked what options would be available for a citizen. City Attorney Daggett replied the initial logic of the campaign finance disclosure requirements was that the political process is political and whatever information people have about what may have happened would feed into the political process and be usable for people who wanted to advocate for or against individual candidates, or seek recall of individual candidates.

4. OTHER BUSINESS

Chair Pignataro asked when the civil versus criminal penalty option will come before the Committee. City Attorney Daggett stated any violation is currently a criminal misdemeanor and there are some types of violations that staff would recommend continue to be so. She stated it is clear there is interest in backing off consequences and intensity of enforcement for items like filing violations. She stated those issues would shift from a criminal violation to a civil infraction or other administrative violation.

City Attorney Daggett stated staff will need to work on developing a recommendation for what the process may look like. She noted civil infractions are punishable by fines and stated a fine schedule could be outlined.

Councilmember Summers stated it is important to delineate between oversights and mistakes versus true law violations such as fraud, which is already illegal. He stated creating disproportionate penalties will discourage people from serving in public office.

City Clerk Coldiron and City Attorney Daggett outlined the process by which complaints are addressed through the two offices.

Chair Pignataro asked if the City is planning to place any items on the November 2020 ballot. City Clerk Coldiron replied in the negative. Mayor Troxell discussed how items may emerge to be placed on the ballot.

Chair Pignataro asked about cost of adding an item to a presidential election ballot. City Clerk Coldiron replied it would be quite expensive and noted all local items are placed near the end of the ballot.

5. ADJOURNMENT

The meeting adjourned by unanimous consent at 5:22 PM.
February 21, 2020

ELECTION CODE COMMITTEE MEETING

3:32 PM

COUNCILMEMBERS PRESENT: Troxell, Pignataro, Summers
STAFF PRESENT: Carrie Daggett, Ryan Malarky, Delynn Coldiron, Rita Knoll, Sara Gonzales
CITIZENS PRESENT: Robbie Morel, Michael Pruznick, Michelle Haefele, Jody Deschenes, Psyche Spangler, Roxanne Griffin, Lori Brunswig, Kathleen Schmidt, Dick Thomas, Adolfine Thomas, Anne Thompson, Karen Wagner

1. CALL MEETING TO ORDER

Chair Pignataro called the meeting to order.

2. CITIZEN COMMENT

Robbie Moreland suggested new election laws should strive to meet the intent of the legislative declaration in Chapter 7 of the Municipal Code. LLC contributions should be limited, and City law should match state law to avoid the appearance of corruption. She also supported matching state law relative to the formation of independent expenditure committees and stated the formation of an independent expenditure committee should be required when donations in excess of $250 have been received, or an expenditure in excess of $250 has occurred, and donor disclosures should be required for donations of $100 or more.

Jody Deschenes stated the City's high standards should include the highest level of transparency for voters. She requested that contributions from individual voters be limited to $75 or $100 in total, regardless of how many LLCs are owned by that individual. She also requested candidate committees be terminated in full at the end of each election, including liquidating all unused campaign funds, and requested that all committee and independent expenditure reporting forms be updated to digital versus PDFs to make filing, storage, and review easier. Ms. Deschenes also requested an update regarding the vetting and hiring of an independent redistricting consultant and supported the use of ranked choice voting. Additionally, she requested an update on guidelines for employment as an election judge.

Kathleen Schmidt, League of Women Voters of Larimer County, requested the City change its law to match the state law relative to campaign contribution limits from LLCs.

Michael Pruznick discussed his energy-neutral home and stated there is a large loophole in the LLC issue. He discussed the “paid for by” requirement and penalties for campaign violations. He mentioned legalizing vote buying.

Anne Thompson, League of Women Voters of Larimer County, stated the League was recently approached by members of Represent Fort Collins regarding changes that should be made regarding contribution limits from LLCs. Fort Collins should change its laws to match those of the state.

Michelle Haefele supported aligning Fort Collins regulations with those of the state regarding LLC contributions, and supported ranked choice voting.

Roxanne Griffin supported aligning Fort Collins regulations with those of the state regarding LLC contributions.

Karen Wagner opposed the outside influence of money on politics and supported aligning Fort Collins regulations with those of the state regarding LLC contributions.

Richard Thomas supported aligning Fort Collins regulations with those of the state regarding LLC contributions and stated any Councilmembers who have accepted a contribution from an LLC should recuse themselves from votes related to developments.

Councilmember Summers noted not all LLCs are related to developers and that Fort Collins has the lowest contribution limits of any municipality in the state. Election codes should provide the candidate the greatest...
control over his or her election if there is a concern about who is influencing elections. He also noted state guidelines allow $400 contributions per individual and stated local City Councilmembers are not professional politicians. He spoke in favor of keeping money directed to candidates for their use.

Chair Pignataro asked about changing the campaign finance report forms from PDFs. Knoll replied they are fillable PDFs but they are scanned and posted online so as to ensure the Clerk’s Office date stamp is reflected. She suggested there could be another way to address that in the future.

Regarding ranked choice voting, Councilmember Summers commented on the low number of races over the last several elections that had candidates receiving less than 50% of the vote.

Mayor Troxell commented on ranked voting not appearing to be necessary based on prior elections.

Councilmember Summers stated he would like to get some information from other Colorado municipalities who use ranked choice voting.

Councilmember Pignataro asked about redistricting. City Clerk Coldiron stated census data will not be available until the first quarter of 2021 and redistricting would be based on that.

3. APPROVAL OF JANUARY 10, 2020 COMMITTEE MEETING MINUTES

Mayor Troxell made a motion, seconded by Councilmember Summers, to adopt the January 10, 2020 Committee meeting minutes. The motion was adopted by unanimous consent.

4. DISCUSSION ITEMS

   a. Civil versus criminal penalty options for election code violations

City Attorney Daggett stated the City has a history of limited enforcement action around campaign finance issues and the Committee has discussed evaluating potentially changing violations from all violations being a criminal misdemeanor to making some less egregious complaints civil infractions or administrative violations.

Councilmember Pignataro mentioned the Committee decided at its previous meeting to leave the existing “paid for by” requirements in place as they were just implemented in the previous code change cycle.

City Attorney Daggett stated the next meeting agenda is planned to include possible Charter amendments related to elections.

Malarky presented information related to a possible new enforcement system. He noted the existing process is complaint-based and complaints go through a review process by the City Attorney for probable cause, and if probably cause is found, there would be further investigation and prosecution if deemed appropriate. All violations of campaign finance requirements are currently criminal misdemeanors. This proposed system makes most violations of the campaign finance requirements subject to civil penalties. Malarky outlined the items that would remain criminal offenses under this system. The current proposal would disallow campaign contributions from being used to pay administrative penalties.

Councilmember Summers disagreed with that recommendation.

Knoll discussed the reasoning for the draft language, stating donors provide contributions to aid in getting an individual elected.

Councilmember Pignataro stated she could see both sides of the issue relating to whether or not campaign contributions should be able to be used for fines.

Committee members and staff discussed the number of violations that would need to occur prior to a violation becoming criminal.
Councilmember Summers suggested the process related to joint account contributions would benefit from being aligned with the state regulations.

Mayor Troxell commended the overall work of the City Attorney's Office stating the changes align with the Committee discussions.

b. City regulation of LLC campaign contributions

Malarky stated this proposed language amends the campaign contributions and expenditures Code section related to contribution limits. The change mirrors state law and would require an LLC to submit a written statement to the candidate or candidate committee when it makes a contribution, providing the name and address of all the members of the LLC, information on how the contribution will be attributed to those individual members, and the contributions made by the LLC as they are attributed to the members. The contributions would then count toward the individual contribution limits of the members.

Mayor Troxell asked about the situation in relation to a C-corporation. Malarky replied this is strictly related to LLCs.

Mayor Troxell questioned the legal structure of an LLC and how it is considered beyond being a legal entity.

City Attorney Daggett stated she has not examined the rationale for looking at LLCs only as opposed to other types of business entities, though it is likely because an LLC is easier to form and there are fewer related consequences to forming an LLC than other types of business entities.

Councilmember Summers stated the rules as they are now are not discriminatory in terms of one candidate over another and suggested changing the regulations will allow LLCs to make the same contributions to an independent expenditure committee rather than to an individual candidate which takes control away from the candidate.

Knoll commented on nested LLCs which may need to be addressed in these provisions. City Attorney Daggett stated that could be addressed by requiring information if a member is not a natural person.

Mayor Troxell supported increasing the maximum donation amount for each individual if the LLC regulations are changed.

Councilmember Pignataro stated she would not support that.

Councilmember Summers stated it would be interesting to have data related to LLC contributions from the last election to ensure recommended changes are not reactionary.

Mayor Troxell stated he does not believe there is corruption involved in LLC contributions and questioned whether changes would improve the system. He questioned what problem is being solved.

Councilmember Pignataro stated the problem as she sees it is that LLC contributions take the power away from individual voters and place it with entities that have more money.

Mayor Troxell disagreed. Councilmember Summers noted individuals still cast ballots.

5. OTHER BUSINESS

Chair Pignataro suggested that joint account contributions be addressed at a later meeting.

6. ADJOURNMENT

The meeting adjourned by unanimous consent at 5:25 PM.
May 1, 2020

ELECTION CODE COMMITTEE MEETING

3:30 PM

COUNCILMEMBERS PRESENT: Troxell, Pignataro, Summers, Stephens (alternate)
STAFF PRESENT: Carrie Daggett, Ryan Malarkey, Delynn Coldiron, Rita Knoll, Sara Gonzales
CITIZENS PRESENT: Michelle Haefele, Jody Deschenes, Kathleen Schmidt, Robbie Moreland, Jan Rossi

(Secretary’s Note: Due to the COVID-19 crisis and state and local orders to remain safer at home and not gather, all Councilmembers, staff, and public attended the meeting remotely, via teleconference.)

1. CALL MEETING TO ORDER

Chair Pignataro called the meeting to order and discussed the Zoom remote participation.

2. CITIZEN COMMENT

Kathleen Schmidt, Election Reform Team Chair for the League of Women Voters of Larimer County, supported the City matching the state law regarding campaign contributions from LLCs.

Robbie Moreland thanked Council for its work during this time and supported a requirement to wear face masks in public buildings. She expressed support for matching the state law regarding campaign contributions from LLCs.

Jan Rossi opposed the current LLC contribution regulations in Fort Collins, stating money buys influence. She supported aligning the City’s regulations with the state law.

Michelle Haefele reiterated the City’s legislative declaration for campaigns. Large campaign contributions create the potential for corruption and the appearance of corruption and the public interest is best served by limiting campaign contributions. She supported changing the City’s election rules to align with those of the state to limit the total contribution of any individual.

Jody Deschenes commended staff and Council for carrying on with responsibilities under unique and challenging circumstances. She supported keeping campaign contribution limits as is, stating most grassroots candidates would not receive a benefit from increased limits.

3. CONSIDERATION AND APPROVAL OF FEBRUARY 21, 2020 COMMITTEE MEETING MINUTES

Mayor Troxell made a motion, seconded by Councilmember Summers, to adopt the February 21, 2020 Committee meeting minutes. The motion was adopted by unanimous consent.

4. DISCUSSION ITEMS

a. City Regulation of LLC Campaign Contributions

Chair Pignataro stated her impression is that this Committee will not likely come to a strict agreement regarding this item; therefore, she suggested no LLC changes be included in the package of changes sent to Council and, if desired, the entire Council could take up the issue.

Councilmember Summers agreed noting the current LLC regulations have been in place for decades. He took exception to statements of corruption without any type of proof.

Mayor Troxell agreed and stated the Committee should move on.

Chair Pignataro stated Mayor Troxell and Councilmember Summers are in favor of leaving the LLC regulations unchanged; however, she is a proponent of changing them. The Committee will send its package of changes forward to Council without changes in the LLC language at this time and the entire Council could take up the issue at that time.
b. Possible Charter Amendments Relating to Elections

i. Amend Article VIII, Section 9 Corrupt Practices

Assistant City Attorney Ryan Malarky stated this item concerns a section of the Charter that came to the attention of Council and the Committee after the last election cycle. Several citizen complaints were filed concerning alleged Election Code violations. Questions were raised as to the consequences or penalties if an allegation is sustained and someone is ultimately convicted of an Election Code violation.

Malarky outlined the existing penalties, including a ban on holding City office or employment for a certain number of years, which seem to be fairly significant and stated staff wanted to give the Committee an opportunity to discuss this section to see if there is any interest in making changes.

Clarifying the portion that addresses “at a city election” could be considered. Malarky questioned if this provision is intended to apply to election-related offenses that would have an impact on the outcome of an election or call into question the propriety of City elections. He also noted there is a difference between civil violations and criminal violations, the latter of which generally have stricter penalties. The Committee could consider this provision being triggered only by a criminal violation as opposed to something that would be strictly civil.

Mayor Troxell supported getting more information and involving more discussion, perhaps in the form of a work session.

City Attorney Daggett suggested it may be helpful for staff to develop some different versions for consideration at the next meeting.

Mayor Troxell and Chair Pignataro agreed with that suggestion.

City Attorney Daggett outlined what she has heard in the discussion including recognition that this section needs to be related to what would be considered significant offenses that relate to an election or campaign.

(Secretary’s note: Councilmember Summers left the meeting at this point and Mayor Pro Tem Stephens stepped in as Committee alternate)

ii. Amend Article VIII, Section 8 regarding participation in elections by political parties, city employees, public service corporations or any other person intending to apply for a franchise or have a contract with the City

City Attorney Daggett stated an executive session might be helpful to discuss legal issues. This item is on the agenda as there were some issues that came up during the last election related to some employee organizations and generally related to this section. The key part of the section staff is suggesting the Committee may want to consider is the limitation on contributions or expenditures of any money or valuable things, directly or indirectly, to assist in the election or defeat of a candidate by any of the following: a political party, a City employee, a public service corporation, and any person, firm, or corporation owning, interested in, or intending to apply for, any franchise or contract with the City.

Mayor Pro Tem Stephens made a motion, seconded by Mayor Troxell, that the Election Code Committee go into Executive Session for the purpose of meeting with the City's attorneys and City Clerk's Office staff to discuss the following matters as permitted under City Charter Article II, Section 11-2, City Code Section 2-31(a)(2), and Colorado Revised Statute Section 24-6-402(4)(b): the manner in which the particular policies, practices, or regulations of the City related to City elections may be affected by existing or proposed provisions of federal, state, or local law. Yeas: Pignataro, Troxell, and Stephens. Nays: none.

THE MOTION CARRIED.

(Secretary’s Note: The Committee went into Executive Session at this point in the meeting and returned at 5:15 pm.)
Chair Pignataro stated there is value in looking at this section more carefully at next month's meeting.

Mayor Troxell and Mayor Pro Tem Stephens concurred.

iii. Amend Article II, Section 4 to conform with Article II, Section 1(d) to reflect the selection of Mayor Pro Tem does not occur until recount period has expired

City Attorney Daggett stated this issue was created when the Charter was amended in 2017, but a provision was missed that needs to be modified, given the recount procedure and time needed to finalize the certification of the election. This would be a corrective edit to the Charter that would ensure the newly elected Council is selecting the Mayor Pro Tem. Staff has discussed an idea that sets a specific date for swearing in of the new Council and subsequent actions, such as selecting a Mayor Pro Tem, would tie into that date.

City Clerk Coldiron stated a having a date certain for swearing in of new Councilmembers seems to make sense as the Clerk's Office received many questions after the last election and there was disagreement as to when to move forward with certain actions. This would build certainty into the process.

City Attorney Daggett noted the Charter states a Councilmember's term continues until a successor is sworn in and having a date certain for the swearing in would provide more predictability.

Chief Deputy City Clerk Knoll stated a full course of a recount and election certification could be out as far as the second Tuesday in May. She also noted there have been issues wherein some Councilmembers are subject to a recount and others are not.

Chair Pignataro asked if the language could be changed to select the Mayor Pro Tem at the first regular meeting after the new Council is sworn in. City Attorney Daggett replied that could work if it was made clear that would occur after each seat is resolved and after the completion of any recount.

Chief Deputy City Clerk Knoll noted if no recount is requested, the opportunity to swear in Councilmembers would be sooner, which is one argument against setting a date certain for swearing in. However, setting a date certain would be more similar to county and state offices.

Chair Pignataro stated she would like to receive additional information from staff regarding preferences and ease of understanding for voters as this is a Charter amendment.

Chair Pignataro suggested staff return at the next meeting with information as to what would be affected by adding a date certain.

Mayor Troxell stated the entire Council should be seated prior to selecting a Mayor Pro Tem. He asked about the timeframe for a requested recount. Deputy City Clerk Gonzales replied a recount must be requested within five days after certification of the election, which is ten days after the election.

City Attorney Daggett suggested there could be two alternative set dates, one in the case of a recount, and one if there is no recount. Chief Deputy City Clerk Knoll recommended that those two options are likely the first meeting in May or the second meeting in May, or potentially a special meeting at the end of April.

Chair Pignataro suggested staff return with options at the next meeting.

Mayor Troxell suggested the swearing in does not necessarily need to occur on a Tuesday.

(Secretary's Note: Mayor Troxell left the meeting at this point.)
iv. Amend Article VIII, Section 4(a) to eliminate requirement that the affidavit of circulator contain a statement of the number of signers on that section of the petition

Chief Deputy City Clerk Knoll stated this provision was eliminated in one portion of the Charter, but staff recently discovered a hold over of similar language in another section. This change will clarify that language.

Mayor Pro Tem Stephens stated that language cleanup makes sense.

5. OTHER BUSINESS

Mayor Pro Tem Stephens stated there may be some desire from the rest of Council to bring forward the issue related to LLC campaign contributions and suggested staff may want to have language prepared.

City Attorney Daggett stated there may be benefit in having a Council work session to discuss some of these issues.

Chair Pignataro noted the importance of timing as Charter amendments would need to be on the April ballot.

6. ADJOURNMENT

The meeting adjourned by unanimous consent at 5:43 PM.
June 5, 2020

ELECTION CODE COMMITTEE MEETING

3:30 PM

COUNCILMEMBERS PRESENT: Troxell, Pignataro, Summers
STAFF PRESENT: Carrie Daggett, Ryan Malarky, Delynn Coldiron, Rita Knoll, Kelly DiMartino
CITIZENS PRESENT: Jody Deschenes, Robbie Moreland, Kathleen Schmidt, Kevin Jones, Jan Rossi, Michele Haefele

(Secretary’s Note: Due to the COVID-19 crisis and state and local orders to remain safer at home and not gather, all Councilmembers, staff, and citizens attended the meeting remotely, via teleconference.)

1. CALL MEETING TO ORDER

Chair Pignataro called the meeting to order and discussed the Zoom remote participation.

2. CITIZEN COMMENT

Robbie Moreland thanked the Committee for sending the recommendation to eliminate anonymous contributions to the entire Council. She stated there is no limit on donations from individuals to political committees in Fort Collins but at the state level, that limit is $625 per two-year election cycle. She requested the Committee address this campaign finance loophole as soon as possible. She requested confirmation on her assertions that the limits do not exist, and that political committees can coordinate with candidates.

Jody Deschenes stated there are currently no limits on donations from individuals to political committees and no prohibition of coordination between candidates and political committees. She requested contributions to political committees be limited to $100. She thanked the Committee for recommending to Council that anonymous donations be eliminated.

Kathleen Schmidt, League of Women Voters of Larimer County, thanked the Committee for its work. She expressed support for matching the state law regarding campaign contribution limits from LLCs.

Chair Pignataro asked if it is true there is no limit on contributions to political committees and that there is no prohibition of political committees coordinating with candidates. City Attorney Daggett replied the definitions of the different types of committees do not necessarily describe contribution limits; however, there is a Code provision that specifically states committees of all types shall not coordinate expenditures with any other such committee in a manner that circumvents any restrictions or limitations on campaign contributions, expenditures, or reporting. She stated there are no limits on expenditures of committees because the campaign finance system in the Code, with the exception of the limitations on contributions to candidates, is aimed at essentially bringing light to expenditures through disclosures. The reason for that is that First Amendment protections exist for political speech.

City Attorney Daggett clarified there is a limit on contributions to candidates, but not to political or issue committees. Staff is in the process of writing a memo addressing these topics.

Mayor Troxell noted self-funding of campaigns can occur as well and he discussed the importance of candidates wanting to control their own messaging.

3. CONSIDERATION AND APPROVAL OF MAY 1, 2020 COMMITTEE MEETING MINUTES

Mayor Troxell made a motion, seconded by Councilmember Summers, to adopt the May 1, 2020 Committee meeting minutes. The motion was adopted by unanimous consent.
4. **STAFF REPORT: Overview of Code changes previously approved by the Election Code Committee and proposed timeline of changes to City’s Election Code.**

Ryan Malarkey, City Attorney’s Office, outlined the previously approved Code changes which include the elimination of anonymous donations, addressing allowing candidates to use unexpended candidate committee contributions for a non-City election or a subsequent City election, and making the majority of campaign finance violations administrative penalties rather than criminal violations, among other items.

Chief Deputy City Clerk Knoll stated there is one more ECC meeting scheduled as proposed Charter amendments will need to go before the full Council by July or August to make the November ballot. The timeline for Charter amendments is different as they must be put on the ballot by ordinance, which requires two readings.

City Attorney Daggett noted staff has considered having a work session for the entire Council on July 14. Chair Pignataro supported adding these items for discussion.

5. **DISCUSSION ITEMS**

a. **Possible Charter Amendments**

i. **Consideration of possible amendment to City Charter Article VIII, Section 4(a) to eliminate the requirement that the affidavit of circulator contain a statement of the number of signers on that section of the petition.**

(No discussion needed; ECC previously supported bringing this forward to City Council.)

ii. **Consideration of possible amendment to City Charter Article II, Section 4 to conform with Article II, Section 1(d) to reflect the selection of Mayor Pro Tem does not occur until recount period has expired.**

Knoll stated the last round of amendments included a change related to when Council takes office, but no amendments were made to when the Mayor Pro Tem is selected, which has resulted in conflicting language. She outlined options for language clarification and provided pros and cons for various options.

Mayor Troxell asked how long the outgoing Council would sit. Knoll replied they always remain until the new members are sworn in.

Mayor Troxell suggested taking the two options to the work session perhaps with a preferred option from the Commission.

Councilmember Summers stated it would be beneficial to get feedback from the full Council on this item.

Committee members and staff discussed the timeline issues with both options. Chair Pignataro stated the option that provides more time could allow for onboarding to occur, which would be an advantage.

Councilmember Summers discussed the possibility of establishing a date for the oaths of office and selection of the Mayor Pro Tem with the caveat that those dates would change if a recount is requested. Knoll replied that is essentially option one; however, there is no way to predict when the date of swearing in will be until the deadline to request a recount has passed.

Mayor Troxell asked what would trigger a mandatory recount. Knoll replied it is a difference of less than one half of one percent; however, anyone can request a recount and fund it themselves.

Councilmember Summers stated he would favor option one. Mayor Troxell concurred and stated he would prefer the swearing in to be closer to the election.

Councilmember Summers asked if the November coordinated election is occurring only for these issues. City Clerk Coldiron replied these are the only City matters as of right now.
Councilmember Summers asked about the cost of a coordinated election. City Clerk Coldiron replied the cost is based on the number of registered voters, as well as the number of other jurisdictions that are participating. The exact cost is difficult to determine, but there will be additional costs because it is a presidential election. If the ballot becomes two pages, there is a significant additional cost. She estimated the cost to be at least $200,000.

Councilmember Summers questioned whether that cost would be worth it when the items could be rolled into the regular City election in April. City Attorney Daggett stated a ballot question could be written for the April election that would make the effective date of the changes immediate.

Chair Pignataro suggested the Committee continue the discussion at the full Council work session.

Chair Pignataro asked if there is a hierarchy to be considered for the coordinated election. Knoll replied there is a hierarchy for how questions are placed on the ballot, with municipalities following state and county items. When the City participated in the 2012 presidential election, the cost to the City was $292,000, which did not include a second page.

iii. Consideration of possible amendment to City Charter Article VIII, Section 9 regarding corrupt practices.

City Attorney Daggett noted the issue that triggered this possible Charter amendment was the question about campaign finance complaints and the risk that someone who is elected to office would be found to have had a campaign finance violation. She stated the Code provisions reviewed by Malarky and the Commission over the past few meetings address that issue for the most part. There have not been many issues with this Charter provision from a practical standpoint.

City Attorney Daggett stated if there was concern about the Charter provision applying to activities in advance of the April election, then a Charter change should perhaps be proposed to voters.

Chair Pignataro stated she is leaning toward leaving the provision as is for now.

Councilmember Summers supported leaving the provision as is or going with the option of deleting it and having it in the Code as an ordinance. Mayor Troxell agreed.

City Attorney Daggett noted there is a challenge when discussing constraining someone from serving in a Council seat if the ordinance is contained in the Code rather than a provision in the Charter.

City Attorney Daggett suggested Malarky explain options 2 and 3, as well. Malarkey replied there has been a question as to the definition of “at a City election” and both options 2 and 3 attempt to clarify that. Option 2 contains a specific intent element which would make the provision a little more specific as to the type of conduct it is trying to address. It also contains a timeframe limitation for specific offenses. Option 3 has the same narrowing of timeframe and types of offenses, but without the specific intent element. Malarky acknowledged trying to prove intent can be challenging.

Chair Pignataro stated the intent piece introduces more confusion.

City Attorney Daggett clarified this item deals with the mechanics of the election rather than campaign activities.

Chair Pignataro asked what problem is being solved by this change. City Attorney Daggett replied the current language is vague in the sense that it talks about violating any law at a City election. It may or may not be an urgent problem in the sense that it has not actually been a problem other than during the last few elections when the number of complaints has increased and there has been more risk of someone being convicted of a campaign finance violation as a criminal misdemeanor. With the Code changes recommended by the Committee, that will no longer be an issue.
Councilmember Summers made some language suggestions. City Attorney Daggett replied staff will return with some options for how this could be approached at the next meeting.

iv. Consideration of possible amendment to City Charter Article VII, Section 8 regarding participation in elections by political parties, City employees, public service corporations or any other person intending to apply for a franchise or have a contract with the City.

The Committee postponed consideration of this item to the next meeting.

6. OTHER BUSINESS

None.

7. ADJOURNMENT

The meeting adjourned by unanimous consent at 5:00 PM.
July 1, 2020

ELECTION CODE COMMITTEE MEETING

4:00 PM

COUNCILMEMBERS PRESENT: Troxell, Pignataro, Summers
STAFF PRESENT: Carrie Daggett, Ryan Malarky, Delynn Coldiron, Rita Knoll, Sara Gonzales
CITIZENS PRESENT: Jody Deschenes and Robbie Moreland

(Secretary's Note: Due to the COVID-19 crisis and state and local orders to remain safer at home and not gather, all Councilmembers, staff, and citizens attended the meeting remotely, via teleconference.)

1. CALL MEETING TO ORDER

Chair Pignataro called the meeting to order and discussed the Zoom remote participation process.

2. CITIZEN COMMENT

Robbie Moreland stated she would like the Committee to discuss contribution limits to political committees. Avenues of unlimited spending still exists at both the local and state levels in the form of issue committees and independent expenditures.

Jody Deschenes noted the Committee did not agree to support limiting LLC contributions to candidate committees; therefore, she and others reached out for support from the remaining Councilmembers at the last Council meeting and she looks forward to the full Council discussion on implementing the change. Limits should exist on contributions to political committees and she looks forward to a full Council discussion on this as well. Deschenes requested discussions regarding updating campaign finance forms to some sort of accessible online database and allowing electronic signature collection for petitions.

3. CONSIDERATION AND APPROVAL OF JUNE 5, 2020 COMMITTEE MEETING MINUTES

Mayor Troxell made a motion, seconded by Councilmember Summers, to adopt the June 5, 2020 Committee meeting minutes. The motion was adopted by unanimous consent.

4. DISCUSSION ITEMS

a. Possible Charter Amendments

i. Consideration of possible amendments to City Charter Article VIII, Section 8 regarding participation in elections by political parties, City employees, public service corporations or any other person intending to apply for a franchise or have a contract with the City

City Attorney Daggett stated this item was placed on the agenda as there had been a great deal of question and discussion during the 2019 election around this Section of the Charter and what the limit on City employee direct or indirect contributions meant. In order for these changes to be in effect for the April 2021 election, Charter amendments would need to be considered on the November ballot. At this point in time, there is no specific plan to move forward with a special election in November and associated costs are expected to be several hundred thousand dollars. It is worth considering whether trying to move this forward now is necessary, though it is still possible should Council desire.

Councilmember Summers asked if this provision applies to Councilmembers. City Attorney Daggett replied there is a distinction between the Council as elected officials, or City officers, and other City employees.

Mayor Troxell asked if this applies to any other type of election. City Attorney Daggett replied it only applies to City Council candidate elections and does not interfere with employees participating on their own time using their own resources regarding issues in a City election.

Mayor Troxell asked how this provision applies to spouses. City Attorney Daggett replied it is limited to actions of the City employee.
Mayor Troxell expressed support for increasing clarity, but suggested the Charter language should remain as is.

Chair Pignataro agreed with Mayor Troxell and stated ballot wording is critical to lessen confusion.

City Attorney Daggett stated the Committee may want to state to the full Council it does not recommend action in terms of putting this item on the November ballot, but may want to ask staff to consider what clarifying language could be put in the Code to interpret the provision. Chair Pignataro and Mayor Troxell agreed with that assessment.

ii. Consideration of possible amendments to City Charter Article VIII, Section 9 regarding corrupt practices

Ryan Malarky, Assistant City Attorney, stated this item came to Council's attention in the last election cycle when there was an enforcement action that implicated this provision, specifically the portion that would have disqualified a person from holding Council office. In response to some of the concerns raised, staff researched the issue to attempt to bring some clarity to the purpose of the provision and what issues it may be trying to address. Research did not provide any clear answer as to what “at a City election” means; therefore, staff has provided some options to help bring clarity to the meaning of the Charter provision.

Malarky stated switching from a criminal process to an administrative penalty process would aid in alleviating concerns raised about this Section. One approach could be to not recommend a change to this Section now and see how the Council decides to approach the administrative penalty process. Another approach could be to send the administrative process to Council while simultaneously moving forward with changes to this language.

City Attorney Daggett noted there was discussion at the last Committee meeting about a modification to the Charter that would include a reference to disqualifying events and that could be included in a package of Charter changes when others come forward.

Mayor Troxell supported the first option to not act on the Charter language aspect at this time. Chair Pignataro agreed.

Councilmember Summers stated it makes sense to have administrative penalties for things that are not corrupt practices. He discussed the importance of contextualizing City policies.

City Attorney Daggett stated staff will work to have the Code changes finalized for discussion at the upcoming Council work session and consideration in August.

5. OTHER BUSINESS

a. Petitioning Process Update

Chair Pignataro noted the Colorado Supreme Court declared today that online petitions are not to be allowed.

Malarky stated the Court issued a ruling in a case that specifically challenged the Governor's order allowing online petitioning. The Court ruled online petitioning is unconstitutional as the state constitution requires in-person petitioning. He stated the effect of this on the City will be examined by staff.

Mayor Troxell noted there have been active signature solicitors recently.

Chair Pignataro asked if the Clerk's Office is still working on making campaign forms searchable. Chief Deputy City Clerk Knoll replied the date stamping issue has been resolved; however, forms are not required to be filled electronically; therefore, some handwritten reports are still received and those would have to be scanned and would not be searchable. She would like to require all parties to use the provided Excel spreadsheet, however, there were issues in the last election where people converted those to other software, and they were not formatted properly when returned. Forms returned in proper Excel format can be converted to a searchable PDF.
Chair Pignataro asked how to require candidates to use the provided Excel spreadsheet. Knoll replied staff has yet to discuss whether that can be legislated in the Code. City Attorney Daggett replied that could be examined to be included as part of the August changes.

Committee members and staff discussed the reporting requirements.

Mayor Troxell commended the City Clerk’s Office for being service-oriented, particularly for first-time candidates.

Knoll noted the Excel spreadsheet format is helpful to avoid math errors.

City Attorney Daggett noted the Code already states that reports are to be submitted on forms provided by the City Clerk.

Chair Pignataro commended staff work on the memo regarding political committees.

Malarky stated the memo responds to some questions that came up at a recent Council meeting following public comment. The questions include how political action committees are regulated by the City Code, whether there is a limit on the amount of contributions that can be made to a political committee, and whether political committees have the ability to coordinate with other types of committees.

Knoll noted the City does not allow political committees to make contributions to candidate committees, though the state law does.

City Attorney Daggett noted any time the City is taking action that limits political activity, it creates a need to ensure First Amendment issues are being considered.

Chair Pignataro noted political committees, small-scale issue committees, and issue committees do not have contribution limits and asked if all three types of committees have the same types of attributes. City Attorney Daggett replied small-scale issue committees are handling so little money that the requirements to which they are subject has been pared back, pursuant to applicable case law. When one of those committees grows beyond that threshold, it becomes an issue committee. Issue committees focus on ballot questions whereas political committees are focused on candidate races, although they cannot coordinate with, nor make direct contributions to, candidates.

Chair Pignataro stated she is not comfortable making a change at this point.

City Clerk Coldiron stated there are no additional Committee meetings scheduled and noted the work of the Committee would typically stop at this point until after the next election. Staff will put forth an item calling for a special election in November simply as a placeholder.

Chair Pignataro asked if the Committee would need to meet again should Charter amendments be desired to be placed on the April ballot. City Clerk Coldiron replied that could either go before the Committee at another meeting or could go before the full Council.

Chair Pignataro suggested not scheduling another meeting at this time but waiting until after the work session to see if it would be needed. Mayor Troxell and Councilmember Summers concurred.

6. ADJOURNMENT

The meeting adjourned by unanimous consent at 4:55 PM.
ORDINANCE NO. 112, 2020
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING SECTION 7-135 OF THE CODE OF THE CITY OF FORT COLLINS TO
MODIFY AND UPDATE REQUIREMENTS AND PROCEDURES FOR CAMPAIGNS IN
CITY ELECTIONS

WHEREAS, Chapter 7 of the City Code sets out procedures and requirements for
redistricting of Council districts, for the conduct of City elections, for disclosure of campaign
finance information, and other related matters; and

WHEREAS, in 2015 the City Council formed an ad hoc committee to review, discuss and
recommend the most beneficial changes to the Code and City Charter regarding elections and
other related matters; and

WHEREAS, in January 2017, Council made the ad hoc Committee a standing committee
of Council for the purpose of identifying and evaluating ideas for improvements to City election
laws and practices and anticipating adjustments that may be needed to adapt to a changing legal
and technological environment, for Council consideration; and

WHEREAS, as a result of the Committee’s work (as both an ad hoc committee and a
standing committee), Ordinance No. 021, 2016, Ordinance No. 005, 2017, Ordinance No. 045,
2018, Ordinance No. 077, 2018, and Ordinance No. 113, 2018, were considered and adopted by
the Council to update various provisions of Chapter 7; and

WHEREAS, the Committee continued to meet in 2018, 2019 and 2020, and has
recommended additional clarifications and amendments to Chapter 7; and

WHEREAS, the Council discussed several proposed changes to Chapter 7 at its August
25, 2020, work session and expressed general support for the election and campaign finance
amendments recommended by the Committee, which are included in Ordinance No. 109, 2020,
and under consideration for adoption on this date; and

WHEREAS, also prepared based on the Council’s work session discussion, this
Ordinance amends the Code to impose certain requirements on limited liability companies
concerning contributions, contribution limits, and disclosures, as well as limits on contributions
to political committees; and

WHEREAS, these amendments generally improve and clarify the City’s campaign
finance disclosure; and

WHEREAS, these amendments further the City’s and the public’s interest in shedding
light for the public on the expenditure of money to influence the outcome of City elections, while
respecting the speaker’s interest in freedom of political speech; and

WHEREAS, the Council desires to enact the related amendments to Section 7-135, as set
forth below.

-1-
NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

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

Section 2. That Section 7-135(a) of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 7-135. Campaign contributions/expenditures.

(a) Limits.

(1) No person may make contributions and/or contributions in kind totaling more than one hundred dollars ($100.) to the candidate committee of any candidate for the office of Mayor. No person may make contributions and/or contributions in kind totaling more than seventy-five dollars ($75.) to the candidate committee of any candidate for the office of Councilmember. No person shall make a contribution or contribution in kind in the name of another person or knowingly permit one's name to be used by another person to effect such a contribution or contribution in kind. These limitations shall apply to all contributions or contributions in kind, whether made directly to a candidate committee or indirectly via earmarked gifts passed through an intermediary, except that these limitations shall not apply to:

(1)a. Contributions or contributions in kind made by a candidate to his or her own candidate committee;

(2)b. Independent expenditures;

(3)c. Monetary loans that are: (a) personally guaranteed in writing by the candidate, the candidate’s immediate family or a business entity in which the candidate owns at least five (5) percent; or (b) secured by real or personal property owned by the candidate, the candidate's immediate family or a business entity in which the candidate owns at least five (5) percent; or

(4)d. Contributions made to a candidate committee by another candidate committee established by the same candidate for the office of Mayor or Councilmember.

(2) No person may make contributions and/or contributions in kind totaling more than one hundred dollars ($100.) to a political committee.
No person shall make a contribution or contribution in kind in the name of another person or knowingly permit one's name to be used by another person to effect such a contribution or contribution in kind.

Section 3. That Section 7-135 of the Code of the City of Fort Collins is hereby amended to add a new subsection (b), to read as follows:

(b) **Limited Liability Company Contributions.** A limited liability company ("LLC") may make contributions or contributions in kind to candidate committees or political committees subject to the following requirements and all other applicable limits of this Section:

(1) Any contribution from an LLC shall count against contribution limits for both the LLC itself and the individual members of the LLC as apportioned according. The amount a person contributes as an individual member of the LLC shall count towards the aggregate contribution limit for that person in Subsection (a) herein.

(2) The LLC shall provide the candidate committee or political committee with a written statement affirming the permissibility of the contribution on a form provided by the City Clerk. The affirmation shall include:

a. The name and address of the LLC and each LLC member;

b. Information on how the contribution is attributed among the LLC members, which attribution must reflect the capital each member has invested in the LLC relative to the total amount of capital invested in the company, or the percentage of ownership each member has in the LLC as of the date of the contribution.

(3) No candidate committee or political committee shall accept a contribution from an LLC unless the LLC provides the written affirmation in compliance with this Section before the contribution is deposited by the committee.

(4) The candidate committee or political committee receiving the contribution shall:

a. List both the individual LLC members’ names and the name of the LLC as contributors on disclosure reports; and

b. Retain the affirmation statements for one (1) year after the date of the election; provider however, in the event a complaint is filed against the committee, the committee must maintain the affirmations until the final disposition of the complaint.

(5) As used in this Subsection (b), "limited liability company" shall have the same meaning as "domestic limited liability company" as defined in Section 7-90-102(15), C.R.S., or "foreign limited liability company" as defined in Section 7-90-102(24), C.R.S., as amended.
Section 4. That the remaining subsections of Section 7-135 shall be renumbered as necessary in light of the addition of a new subsection 7-135(b).

Introduced, considered favorably on first reading, and ordered published this 1st day of September, A.D. 2020, and to be presented for final passage on the 15th day of September, A.D. 2020.

__________________________________
Mayor

ATTEST:

__________________________________
City Clerk

Passed and adopted on final reading on the 15th day of September, A.D. 2020.

__________________________________
Mayor

ATTEST:

__________________________________
City Clerk
The City of Fort Collins will make reasonable accommodations for access to City services, programs, and activities and will make special communication arrangements for persons with disabilities. Please call 221-6515 (V/TDD: Dial 711 for Relay Colorado) for assistance.

General Improvement District No. 1 Board Regular Meeting September 1, 2020 (after the Regular Council Meeting)

• CALL MEETING TO ORDER

• ROLL CALL

1. Second Reading of Ordinance No. 073, Appropriating Prior Year Reserves for Downtown Parks Maintenance.

This Ordinance, unanimously adopted on First Reading on August 18, 2020, appropriates $175,000 in fiscal year 2020 in the General Improvement District No. 1 ("GID") for downtown parks maintenance. This funding will come from GID reserves, which at the end of 2019 were about $900,000. Due to the COVID-19 impact on City priorities, we expect lower than budgeted spending for the GID in 2020, therefore, the estimated impact of this item is an additional $58,000 over the 2020 Budget.

The GID can support an additional $175,000 expense without reducing the current level of service for construction and reconstruction of sidewalks, curbs, gutters and streets and/or funding for downtown holiday lights. The City Manager recommends this appropriation and determined the funds are available with previously unappropriated funds from the GID’s prior year reserves and will not cause the total amount appropriated in the GID’s prior year reserves fund to exceed the current estimate of actual and anticipated revenues to be received in that fund during this fiscal year.

• OTHER BUSINESS

• ADJOURNMENT
AGENDA ITEM SUMMARY
General Improvement District No. 1 Board

AGENDA ITEM SUMMARY
September 1, 2020

STAFF
Rachel Rogers, Senior Specialist Economic Sustainability
Josh Birks, Economic Health Director
John Duval, Legal

SUBJECT
Second Reading of Ordinance No. 073, Appropriating Prior Year Reserves for Downtown Parks Maintenance.

EXECUTIVE SUMMARY
This Ordinance, unanimously adopted on First Reading on August 18, 2020, appropriates $175,000 in fiscal year 2020 in the General Improvement District No. 1 (“GID”) for downtown parks maintenance. This funding will come from GID reserves, which at the end of 2019 were about $900,000. Due to the COVID-19 impact on City priorities, we expect lower than budgeted spending for the GID in 2020, therefore, the estimated impact of this item is an additional $58,000 over the 2020 Budget.

The GID can support an additional $175,000 expense without reducing the current level of service for construction and reconstruction of sidewalks, curbs, gutters and streets and/or funding for downtown holiday lights. The City Manager recommends this appropriation and determined the funds are available with previously unappropriated funds from the GID’s prior year reserves and will not cause the total amount appropriated in the GID’s prior year reserves fund to exceed the current estimate of actual and anticipated revenues to be received in that fund during this fiscal year.

STAFF RECOMMENDATION
Staff recommends adoption of the Ordinance on Second Reading.

ATTACHMENTS
1. First Reading Agenda Item Summary, August 18, 2020 (w/o attachments) (PDF)
2. Ordinance No. 073 (PDF)
AGENDA ITEM SUMMARY
General Improvement District No. 1 Board
August 18, 2020

STAFF
Rachel Rogers, Senior Specialist Economic Sustainability
Josh Birks, Economic Health Director
John Duval, Legal

SUBJECT
First Reading of Ordinance No. 073, Appropriating Prior Year Reserves for Downtown Parks Maintenance.

EXECUTIVE SUMMARY
The purpose of this item is to appropriate $175,000 in fiscal year 2020 in the General Improvement District No. 1 ("GID") for downtown parks maintenance. This funding will come from GID reserves, which at the end of 2019 were about $900,000. Due to the COVID-19 impact on City priorities, we expect lower than budgeted spending for the GID in 2020, therefore, the estimated impact of this item is an additional $58,000 over the 2020 Budget.

The GID can support an additional $175,000 expense without reducing the current level of service for construction and reconstruction of sidewalks, curbs, gutters and streets and/or funding for downtown holiday lights. The City Manager recommends this appropriation and determined the funds are available with previously unappropriated funds from the GID’s prior year reserves and will not cause the total amount appropriated in the GID’s prior year reserves fund to exceed the current estimate of actual and anticipated revenues to be received in that fund during this fiscal year.

STAFF RECOMMENDATION
Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION
This item appropriates $175,000 for a contribution to cover the cost of the maintenance services that the City’s Parks Department has provided in the past for the maintenance of the downtown enhanced alleyways and Old Town Square ("Downtown Parks Maintenance"), an amount that has historically been funded by the Downtown Development Authority ("DDA"). In response to the COVID-19 pandemic, the DDA has repurposed a portion of its annual budget to support and operate a Business Marketing and Communications ("BMC") program previously provided by the Downtown Business Association. Several approaches to funding the BMC program were explored between City and DDA staff. This Ordinance enacts the recommended plan by offsetting the DDA’s Downtown Parks Maintenance obligation with $175,000 in 2020 from General Improvement District No. 1 ("GID") funds. As of July 27, the DDA began seamlessly implementing marketing promotions for businesses with variations on program tactics and messaging relative to COVID-19 safety considerations.

GID funds were previously used to help fund the construction of the improvements to the enhanced alleyways and Old Town Square, so these are works of the GID for which the GID’s funds can be used to maintain them as proposed in this Ordinance.

The current GID financial reserves in excess of $900,000 allows the GID to partner with the DDA on unanticipated expenses related to COVID-19. Furthermore, this partnership to support the DDA’s implementation of the BMC program is not anticipated to be a long-term or on-going expense but will later consist...
of additional support included in the 2021 GID budget and then returning to normal funding by the DDA in 2022. This assistance from the GID ensures that the Fort Collins downtown area continues to be the best it can be, the jewel of the City, despite the current economic challenges faced by the City and our businesses.

The original intent for these reserves was to support future large-scale projects, like the Old Town Square renovation, Oak Street Plaza construction and Alley projects. Some of those projects have been delayed due to COVID-19 and others have not moved forward as anticipated. It is expected that the GID will contribute funds to at least two projects in the near-term, Linden Street Project and Mountain Avenue Redesign Project, where GID funding would be used to support bike racks, signage and other similar items. Although these projects have been delayed due to COVID-19, once they are scheduled, the GID will determine what level of funding it can contribute.

**CITY FINANCIAL IMPACTS**

This Ordinance appropriates $175,000 in fiscal year 2020 in the General Improvement District No. 1 (GID). The net impact to the 2020 GID No. 1 budget is expected to be an additional $58,000 of expense due to underspending due to COVID-19. The 2020 ending reserve balance will be reduced by this $58,000 for an ending balance in 2020 of about $895,000.

**ATTACHMENTS**

1. Boundary map (PDF)
2. Powerpoint Presentation (PDF)
ORDINANCE NO. 073, 2020
OF THE COUNCIL OF THE CITY OF FORT COLLINS, COLORADO,
EX-OFFICIO THE BOARD OF DIRECTORS OF GENERAL IMPROVEMENT
DISTRICT NO. 1, APPROPRIATING PRIOR YEAR RESERVES
FOR DOWNTOWN PARKS MAINTENANCE

WHEREAS, in response to the COVID-19 pandemic (the “Pandemic”), the Fort Collins Downtown Development Authority (the “DDA”) has repurposed a portion of its annual budget to support and operate the business marketing and communication program (the “BMC Program”) that the Fort Collins Downtown Business Association (the “DBA”) has operated in the past but, due to the negative economic effects of the Pandemic, the DBA can no longer operate; and

WHEREAS, since July 27, 2020, the DDA has assumed responsibility to operate the BMC Program but can only afford to continue to do so if it can be relieved of some of its other financial obligations; and

WHEREAS, several approaches to assist the DDA in funding the BMC Program have been explored by City and DDA staff and they are proposing the approach of offsetting the DDA’s current financial obligation in fiscal year 2020 to pay the City for the ongoing maintenance provided by the City’s Parks Department for the enhanced alleyways in downtown Fort Collins and DDA’s Old Town Square (“Downtown Parks Maintenance”) with a supplemental appropriation of $175,000 from the unappropriated prior year reserves in the General Improvement District No. 1 Fund (The “GID Fund”) to fund Downtown Parks Maintenance; and

WHEREAS, the GID has previously provided funding for the construction of improvements in the enhanced alleyways and Old Town Square and, as such, they are works of the GID that can be maintained by the GID funding Downtown Parks Maintenance as proposed in this Ordinance; and

WHEREAS, this appropriation benefits the health, safety and welfare of the residents of Fort Collins and serves the public purposes of providing for the maintenance of capital improvements owned by the City and the DDA in downtown Fort Collins and allows for DDA to operate the BMC Program in fiscal year 2020 to continue to provide the Program’s economic benefits to the City’s residents and businesses; and

WHEREAS, Article V, Section 9 of the City Charter permits the City Council, upon the recommendation of the City Manager, to appropriate by ordinance at any time during the fiscal year such funds for expenditure as may be available from reserves accumulated in prior years, notwithstanding that such reserves were not previously appropriated; and

WHEREAS, the City Manager has recommended the appropriation described herein and determined that this appropriation is available and previously unappropriated from the GID Fund and will not cause the total amount appropriated in the GID Fund to exceed the current estimate of actual and anticipated revenues to be received in that Fund during this fiscal year.
NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS, acting Ex-Officio as the Board of Directors of City of Fort Collins General Improvement District No. 1, as follows:

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

Section 2. That there is hereby appropriated from prior year reserves in the GID Fund the sum of ONE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS ($175,000) for expenditure from the GID Fund for Downtown Parks Maintenance.

Introduced, considered favorably on first reading, and ordered published this 18th day of August, A.D. 2020, and to be presented for final passage on the 1st day of September, A.D. 2020.

ATTEST:

Mayor, Ex Officio President

City Clerk, Ex Officio Secretary

Passed and adopted on final reading on the 1st day of September, A.D. 2020.

ATTEST:

Mayor, Ex Officio President

City Clerk, Ex Officio Secretary