



CITY OF FORT LUPTON
CITY COUNCIL/ENTERPRISE BOARDS
REGULAR MEETING AGENDA
Tuesday, October 3, 2023
6:00 PM
130 South McKinley Avenue

Zo Hubbard, Mayor
Valerie Blackston, Ward 1
Chris Ceretto, Ward 2
Carlos Barron, Ward 3
David Crespin, Ward 1
Claud Hanes, Ward 2
Bruce Fitzgerald, Ward 3

You may join in person or join remotely by clicking on:
<https://global.gotomeeting.com/join/851983253>

Call to Order

Pledge of Allegiance

Roll Call

Persons to Address Council - This portion of the Agenda is provided to allow members of the audience to present comments to the City Council. The City Council may not respond to your comments this evening, rather they may take your comments and suggestions under advisement or your question may be directed to the appropriate staff member for follow-up. Please limit the time of your comments to three (3) minutes - Mayor Hubbard

Approval of Agenda

Review of Accounts Payables

a. October 3, 2023 Accounts Payable

Consent Agenda - Consent Agenda items are considered to be routine and will be enacted by one motion and vote. There will be no separate discussion of Consent Agenda items unless a Councilmember so requests, in which case the item may be removed/moved from the Consent Agenda.

- a. September 19, 2023 City Council Meeting Minutes
- b. AM 2023-139 Accepting an Application and Approving a Resolution Establishing All of the City of Fort Lupton as the Neighborhood for the Application Submitted by The Bad Hatchet, LLC dba The Bad Hatchet for a Lodging and Entertainment License at 237 Denver Avenue and Setting a Public Hearing for November 7, 2023, for Consideration of the Application
- c. AM 2023-144 Approving a Resolution Accepting an Amended Public Improvements Agreement with Sphere Renewables Manufacturing for the Extension of Water, Sewer, Storm, and Roadway
- d. AM 2023-146 Accepting a Bid Proposal from Sweet Roofing to Provide Construction Observation and Reroof Buildings for the City of Fort Lupton for an Amount Not to Exceed \$136,485.12, to be Paid Using CIRSA Proceeds

Public Hearings - Public Hearings allow members of the audience to present comments and questions to the City Council on the item being presented. Comments and questions may be limited to three (3) minutes- Mayor Hubbard

- a. AM 2023-140 Approving an Intergovernmental Agreement with Weld RE-8 Schools Concerning the Fair Contribution for New Residential Developments to Pay In-Lieu of Land Dedication for Future School Sites
- b. AM 2023-141 Consideration of the Renewal Application for a Tavern Liquor License, by the City Council acting as the Local Licensing Authority, Submitted by Silvermoon LLC dba Silvermoon Bar and Café

Action Memorandum

- a. AM 2023-142 Approving a Resolution Revising the Water and Sewer Infrastructure Investment Fee Schedule for 2024
- b. AM 2023-143 Approving Change Order to Contract with Burns and McDonnell for Engineering Design Services for the Lift Station/Force Main to METRO Project Design for an Amount Not to Exceed \$29,008.00 from the Sewer Enterprise Fund - Sewer Treatment Plant
- c. AM 2023-145 Authorize Work Order to Jacobs (OMI) for CH2M Hill Engineers, Inc. for a Maximum Amount Not to Exceed \$461,013.00 for Professional Engineering Services for Construction Management Services for the Water Treatment Plant Expansion Project, Allocated from the Utility Fund

Staff Reports

Mayor/Council Reports

Future City Events

- a. October 3, 2023 Upcoming Events

Upcoming Meetings

- a. October 10, 2023 Town Hall Meeting, City Hall, 130 S. McKinley Ave. 6:00 p.m.
October 17, 2023 City Council Meeting, City Hall, 130 S. McKinley Ave. 6:00 p.m.
October 21, 2023 Budget Retreat, City Hall, 130 S. McKinley Ave. 9:00 a.m.
October 31, 2023 Town Hall Meeting, City Hall, 130 S. McKinley Ave. 6:00 p.m.

Adjourn

RECORD OF PROCEEDINGS
FORT LUPTON CITY COUNCIL/ENTERPRISE BOARDS
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The City Council of the City of Fort Lupton met in a regular session at the City Complex, 130 South McKinley Avenue, the regular meeting place of the City Council, on Tuesday, October 3, 2023. Mayor Zo Hubbard called the meeting to order at 6:00 p.m. and invited everyone to join her in the Pledge of Allegiance.

ROLL CALL

Mari Peña, City Clerk, called the roll. Those present were, Mayor Zo Hubbard, Councilmembers, Chris Ceretto, Carlos Barron, Claud Hanes, and Bruce Fitzgerald. Valerie Blackston and David Crespín participated remotely.

Also present were City Administrator, Chris Cross, City Clerk, Mari Peña, City Attorney, Andy Ausmus, Public Works Director, Roy Vestal and Finance Director, Leann Perino.

PERSONS TO ADDRESS COUNCIL

There was no one to address the Council.

APPROVAL OF AGENDA

It was moved by Carlos Barron and seconded by Chris Ceretto to approve the agenda as presented. Motion passed unanimously on voice vote.

REVIEW OF ACCOUNTS PAYABLES

Council reviewed the October 3, 2023, payables; there were no questions or comments from the Mayor or Council.

CONSENT AGENDA

It was moved by Bruce Fitzgerald and seconded by Valerie Blackston to approve the Consent Agenda as presented with the following items:

- September 19, 2023 City Council Meeting Minutes
- Accepting an Application and Approving a RESOLUTION 2023R031 ESTABLISHING ALL OF THE CITY OF FORT LUPTON AS THE NEIGHBORHOOD FOR THE APPLICATION SUBMITTED BY THE BAD HATCHET, LLC DBA THE BAD HATCHET FOR A LODGING AND ENTERTAINMENT LICENSE AT 237 DENVER AVENUE AND SETTING A PUBLIC HEARING FOR NOVEMBER 7, 2023, FOR CONSIDERATION OF THE APPLICATION (AM 2023-139)
- Approving RESOLUTION 2023R032 ACCEPTING AN AMENDED PUBLIC IMPROVEMENTS AGREEMENT WITH SPHERE RENEWABLES MANUFACTURING FOR

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THE EXTENSION OF WATER, SEWER, STORM, AND ROADWAY (AM 2023-144)

- Accepting a Bid Proposal from Sweet Roofing to Provide Construction Observation and Reroof Buildings for the City of Fort Lupton for an Amount Not to Exceed \$136,485.12, to be Paid Using CIRSA Proceeds (AM 2023-146)

Motion passed unanimously on roll call vote.

PUBLIC HEARINGS

**AM 2023-140 Approving an Intergovernmental Agreement with Weld RE-8 Schools
Concerning the Fair Contribution for New Residential Developments to Pay In-Lieu of Land
Dedication for Future School Sites**

Mayor Hubbard voiced concerns in regards to lack of methodology to eliminate the fee for low income senior housing and concerns around automatic renewals.

Mayor Hubbard asked for a motion to table the public hearing.

It was moved by Bruce Fitzgerald and seconded by Carlos Barron to table the public hearing for the Intergovernmental Agreement with Weld RE-8 Schools Concerning the Fair Contribution for New Residential Developments to Pay In-Lieu of Land Dedication for Future School Sites until November 7, 2023. Motion passed unanimously on roll call vote.

Refer to section, Motion to Recall Table, Page 8.

Mayor Hubbard opened the public hearing at 6:42 p.m.

City Administrator, Chris Cross, indicated that the IGA with Weld RE-8 states in section 5a. (4) that older persons are exempt from the Fair Contribution for Public School Sites pursuant to the Federal Fair Housing Act.

City Administrator, Chris Cross and City Planner, Sean McDermott presented the item.

The City of Fort Lupton has and continues to see a lot of residential growth in recent years from new subdivisions. Accompanying an increase in development is an increase in the number of families and children moving into newly built homes. As such, Weld RE-8 and the City of Fort Lupton have been looking for ways to plan for this growth for the continued provision of quality services to existing and new residents. The City and nearby municipalities collect impact fees for new residential developments for services such as stormwater drainage, parks and facilities, and police services. These fees are applied to each new residential development at the time of

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building permit to proportionally pay for the increased investment needed in City services to serve each new home. From an educational perspective, Weld RE-8 must similarly plan for investment in new land for future schools to accommodate residential growth.

C.R.S. § 29-20-105 encourages and authorizes local government entities to enter into intergovernmental agreements (IGAs) with one another for joint planning, development regulation, and other shared efforts. Many communities in the area have agreements in place with their local school district to charge a cash in-lieu of land dedication fee to be used for future school land needs. Thus, the purpose of this IGA is to establish an agreement whereby the City charges a cash in-lieu fee that developers must pay to the School District for each new home. This fee will be charged at the time of building permit with other established impact fees and is to be used solely for the planning and purchase of land for new school sites. The School District will be responsible for collecting the fee and signing off on a building permit using the same method as other referral entities. This process eliminates City responsibility for collecting, managing, or distributing the fee, while still ensuring it is collected by the School District. Developers may work with the School District to dedicate land within a new development (or elsewhere if owned by the developer) instead of paying the fee. In this case, the School District would be able to sign off on the building permit in the same manner.

Staff researched other municipalities' school fee schedules and found that the fee amount frequently varies based on home type, as single-family homes have been found to yield a higher rate of children per home than apartments and multi-family dwellings. After evaluating other communities' fees, demographic data provided by the School District, and current economic conditions in the community, the City reached an agreement with the School District to set a fee of \$1,250/residence for single-family homes, and \$750/unit for apartments/condos. There are provisions written into the agreement to allow for these figures to be reevaluated and updated, as well as the agreement as a whole with sufficient notice given. The City is also given the ability to be a referral/consultant for future school district development, with the goal of furthering future coordination in development within the City and School District.

City Administrator, Chris Cross indicated that this is a five-year agreement. However, either entity can revise the agreement as needed. Mr. McDermott also stated that the school district will send an annual report regarding how much they collected and an evaluation of the fees, the Council will receive this report annually.

There was no further discussion and no one from the public wished to speak. Mayor Hubbard closed the public hearing at 6:46 p.m.

It was moved by Carlos Barron and seconded by Valerie Blackston to approve an Intergovernmental Agreement with Weld RE-8 Schools Concerning the Fair Contribution for New Residential Developments to Pay In-Lieu of Land Dedication for Future School Sites.

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Motion passed unanimously on roll call vote.

AM 2023-141 Consideration of the Renewal Application for a Tavern Liquor License, by the City Council acting as the Local Licensing Authority, Submitted by Silvermoon LLC dba Silvermoon Bar and Café

Mayor Hubbard opened the public hearing at 6:09 p.m.

City Clerk, Mari Peña, provided an overview of the application. On August 31, 2023, the Silvermoon LLC submitted a renewal application for its Tavern Liquor License. The Silvermoon LLC is located at 334 Main Street. After review of the file, it was noticed that the lease agreement between the property owner, Joe Henry Cardenas and the Silvermoon LLC expired in 2018.

The owners of Silvermoon LLC are Jason Cardenas, and decedents Sarah Cardenas and Joe Cardenas.

The owner of the property, Joe Henry Cardenas passed away in March 2023. As of September 25, 2023, upon information and belief Joe Henry Cardenas still holds ownership of the property at 334 Main Street, as evidenced by the Weld County Assessor's Office.

Due to the information regarding Mr. Cardenas' death, and being the sole owner of property, the renewal application is coming before the local licensing authority to determine if the Silvermoon LLC legally holds possession of the premises which is a requirement for any licensee. The Clerk's office can't process the application administratively.

Notice of the hearing was provided to Silvermoon LLC by mail to 334 Main St., Fort Lupton, CO 80621 on September 13, 2023, by text and by email to Jason Cardenas on September 13, 2023. The Public Hearing notice was posted by Jason Cardenas on September 22, 2023.

Jason Cardenas, owner of the Silvermoon took the stand and City Attorney Andy Ausmus read the connected meeting advisement in which Mr. Cardenas consented. Mr. Cardenas stated they are trying to get the property in his name.

City Attorney Andy Ausmus also swore in Mr. Cardenas and widow of Joe Henry Cardenas, Christina Cardenas. Mr. Ausmus asked if an estate has been opened with Weld County Probate Court. Christina Cardenas stated that she is talking with a probate lawyer from Denver who has been checking on what is owed from the bar, if there are any liens, or any taxes owed. She stated that there are many problems with the bar operations and she would rather see the property sold and profits divided between all of Joe Henry's children. After probate, once the property is transferred into Christina's name, she would not renew the lease with Silvermoon LLC unless Jason Cardenas can prove that he is capable of running the bar. Mr. Ausmus asked if Joe Henry

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had a will. She responded no. Mr. Ausmus also asked if there was a lease between Joe Cardenas and the Silvermoon LLC. Jason Cardenas stated there was a lease. However, it has not been renewed and it is basically running on a month to month basis.

Councilmember Chris Ceretto asked City Attorney, Andy Ausmus, if Silvermoon LLC has a month to month agreement, does that satisfy the requirement for the liquor license. Mr. Ausmus stated yes, because he is in legal possession of the property based on the fact that Christina Cardenas is the de facto representative of the estate and she and Jason Cardenas indicated there was a prior lease agreement which is now running month to month.

Councilmember Claud Hanes voiced concern over confusion around where the probate case is going and if the hearing should be continued until the probate case is definitive.

There was no further discussion and no one from the public wished to speak. Mayor Hubbard closed the public hearing at 6:24 p.m.

City Attorney, Andy Ausmus asked Mr. Cardenas if he had a full and fair opportunity to provide any and all evidence to the Council. Mr. Cardenas responded, yes.

It was moved by Chris Ceretto and seconded by Carlos Barron to approve the Renewal Application for a Tavern Liquor License, by the City Council acting as the Local Licensing Authority, Submitted by Silvermoon LLC dba Silvermoon Bar and Café. Motion passed with six yes votes and one no vote by Councilmember Claud Hanes on roll call vote.

ACTION MEMORANDUM

AM 2023-142 Approving a Resolution Revising the Water and Sewer Infrastructure Investment Fee Schedule for 2024

Periodically, it is necessary to revise the Water and Sewer Plant Investment Fee Schedule. City staff conducted a survey of water and sewer taps in the surrounding region. Of the 6 communities surveyed, Fort Lupton fell on the bottom of the list. The average water tap fee is \$15,227.50 for a ¾" meter.

METRO Water Recovery is increasing tap fees to \$5,120 (increase of \$400) per Single Family Equivalent (SFE). The City currently has several projects planned for upgrading the Water Treatment Plant and distribution system.

Changes incorporated within this revision include:

- Increasing the WWTP Plant Investment Fee to \$11,100 per SFE
- Increase the WTP Plant Investment Fee to \$9,000 per SFE

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Revising the respective fees will ensure that the City can adequately plan for the expansion of the Waste Water Treatment Plant and Water Treatment Plant without requiring additional debt.

It was moved by Claud Hanes and seconded by Bruce Fitzgerald to approve Resolution 2023R033 REVISING THE WATER AND SEWER INFRASTRUCTURE INVESTMENT FEE SCHEDULE FOR 2024. Motion passed unanimously on roll call vote.

AM 2023-143 Approving Change Order to Contract with Burns and McDonnell for Engineering Design Services for the Lift Station/Force Main to METRO Project Design for an Amount Not to Exceed \$29,008.00 from the Sewer Enterprise Fund - Sewer Treatment Plant

The Request for Qualifications (RFQ) was advertised August 13, 2021, and selection of consultant following the requirements of the Brooks Act (40 U.S.C. 1101). Burns and McDonnell was awarded the contract November 2, 2021, for the design and permitting of the METRO Lift Station and Force Main. The design is completed and currently under review by the United States Department of Agriculture (USDA).

The City is pursuing a USDA Rural Development loan. Additional effort was required to obtain USDA approval. The Environmental Assessment required additional work for USDA requirements.

Bids are expected to go out this fall and start construction on the force main.

It was moved by Chris Ceretto and seconded by Bruce Fitzgerald to approve Change Order to Contract with Burns and McDonnell for Engineering Design Services for the Lift Station/Force Main to METRO Project Design for an Amount Not to Exceed \$29,008.00 from the Sewer Enterprise Fund - Sewer Treatment Plant. Motion passed unanimously on roll call vote.

AM 2023-145 Authorize Work Order to Jacobs (OMI) for CH2M Hill Engineers, Inc. for a Maximum Amount Not to Exceed \$461,013.00 for Professional Engineering Services for Construction Management Services for the Water Treatment Plant Expansion Project, Allocated from the Utility Fund

CH2M Hill Engineers, Inc. (Jacobs Engineering) is the current provider of engineering services for the City Wastewater Treatment Plant, Water Treatment Plant (WTP), and Distribution, Collection System repairs, and maintenance and operational projects for the City of Fort Lupton. Under the Master Agreement, Appendix J, between the City and CH2M Hill.

The City is in need of professional assistance with construction management and permitting for the expansion of the City's WTP. The WTP has experienced peak flows in the past 2 summers that are coming close to capacity. The design is complete and ready for submittal to CDPHE.

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AM 2022-102 approved \$499,955.00 (which was included in the 2022 budget) for design/permitting services. The Phase 1 and Phase 2 engineering contracted at \$425,292.00 (\$74,663 under budget).

<i>Project Budget</i>	<u>Construction</u>		<u>Budget</u>	
	Engineering CH2M Design	\$ 425,292	2022 Budget	\$ 500,000
	CM-CH2M	\$ 461,013	WTP Expansion	\$ 3,000,000
	PLC	\$ 294,769	pretreatment	\$ 5,000,000
	Filtration Skids	\$ 2,409,959		
	Remaining Constr Est	\$ 4,100,600		
	Total	\$7,691,633		\$ 8,500,000

The City is expecting to go out for bid this fall and start construction beginning of the year.

The 2022 Budget included \$500,000 in the Utility Fund for this project. The 2023 budget includes CIP for pretreatment of \$5,000,000 and \$3,000,000 for the WTP project.

It was moved by Carlos Barron and seconded by Claud Hanes to Authorize Work Order to Jacobs (OMI) for CH2M Hill Engineers, Inc. for a Maximum Amount Not to Exceed \$461,013.00 for Professional Engineering Services for Construction Management Services for the Water Treatment Plant Expansion Project, Allocated from the Utility Fund. Motion passed unanimously on roll call vote.

STAFF REPORTS

Roy Vestal, Public Works Director, reported that over the weekend the city had an actuator fail on the valve that opens and closes to release treated water to the system. It was not fixable at the time but it can be manually operated. OMI advised Hudson of the situation on Saturday afternoon and informed them it would be down for the rest of the weekend. This should not have caused a problem as Fort Lupton and Hudson have water storage. However, Hudson ran out of water sometime on Sunday and pressures went below regulation. Hudson has issued a boil order. The issue was not caused by a treatment problem, it was a supply problem. It is expected that Hudson has a leak as they lost a lot of water very quickly. The valve is currently being manually operated. Mr. Vestal indicated that he has ordered a new actuator from Texas to get rushed here so the system can get back to automatic operations.

He also reported that Harrison street is coming along. They are setting up to pave the road next week as long as weather is good. Finally, the waste water treatment plant is no longer backed up. The temporary centrifuge was installed and in operation. The other one is in Texas being diagnosed to see what can be done to make it last at least another year.

Leann Perino, Finance Director reported they are working on finishing the 2024 budget and the

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budget book will be presented to Council next Tuesday, October 10, 2023.

Chris Cross, City Administrator referred back to AM 2023-140 and indicated that the IGA with Weld RE-8 states in section 5a (4) that older persons are exempt from the Fair Contribution for Public School Sites pursuant to the Federal Fair Housing Act.

MOTION TO RECALL TABLE

Due to the information from the City Administrator, Councilmember Bruce Fitzgerald made a motion to recall the item from table for AM 2023-140 Approving an Intergovernmental Agreement with Weld RE-8 Schools Concerning the Fair Contribution for New Residential Developments to Pay In-Lieu of Land Dedication for Future School Sites. The motion was seconded by Claud Hanes and passed unanimously on roll call vote.

Refer to Public Hearing section, AM 2023-140, for details of the hearing.

MAYOR/COUNCIL REPORTS

Councilmember Valerie Blackston expressed excitement about having an IGA with the schools. With the growth Fort Lupton is seeing, the schools could use the extra funds. She also stated the speed trailer that was placed on North Denver Avenue helped curb the speeding. However, the speed trailer is gone and the speeding is back. She questioned if something permanent could be placed on the street to reduce the speeding.

FUTURE CITY EVENTS

- | | |
|------------------|---|
| October 5, 2023 | Fall Clean-Up Day, Curbside Pick-Up for Seniors and Disabled Citizens. |
| October 7, 2023 | Fall Clean-Up Day, 8:00 a.m. – 12:00 p.m.
Public Works Shop, 800 12th Street |
| October 14, 2023 | Pumpkinfest at the Fort, Historic Fort Lancaster,
2001 Historic Parkway, 3:00 p.m. – 8:00 p.m. |

UPCOMING MEETINGS

- October 10, 2023 Town Hall Meeting, City Hall, 130 S. McKinley Ave. 6:00 p.m.
October 17, 2023 City Council Meeting, City Hall, 130 S. McKinley Ave. 6:00 p.m.
October 21, 2023 Budget Retreat, City Hall, 130 S. McKinley Ave. 9:00 a.m.
October 31, 2023 Town Hall Meeting, City Hall, 130 S. McKinley Ave. 6:00 p.m.

ADJOURNMENT

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The meeting adjourned at 6:53 p.m.

Submitted by,

Maricela Peña

Maricela Peña, City Clerk



Approved by City Council,

Zo Hubbard

Zo Hubbard, Mayor