

**City of Fort Lupton
City Council
SPECIAL MEETING**
Tuesday, July 30, 2024
6:00 PM
130 South McKinley Avenue

Zo Hubbard, Mayor
Valerie Blackston, Ward 1
Chris Ceretto, Ward 2
Carlos Barron, Ward 3
David Crespín, 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/353347597>

Call to Order

Pledge of Allegiance

Roll Call

Action Memorandum

- a. AM 2024-123 Approving a Resolution of the City Council of Fort Lupton Authorizing the Submittal of an Energy and Mineral Impact Assistance Grant with the Colorado Department of Local Affairs for Fort Lupton Wastewater System Improvements for a Project Cost Estimate of \$15,200,000.00.
- b. AM 2024-124 Consideration of an Ordinance to Allow for the Operation of Marijuana Cultivation Facilities, Products Manufacturing Facilities, Research and Development Facilities, Centralized Distribution Permits, and Off-Premises Storage Facility Permits
- c. AM 2024-125 Consideration of an Ordinance to Enact a New Wholesale Marijuana Excise Tax of 1.5%, Not to Exceed 4%, on the Sale or Transfer of Unprocessed Retail Marijuana by a Licensed Cultivation Facility
- d. AM 2024-126 An Ordinance of the City of Fort Lupton Approving the Submission of a Ballot Question to the Registered Voters Voting in the Coordinated Election to be Held November 5, 2024, a Ballot Question if the City Should Amend Ordinance No. 2021-1127 and the Official Code of the City of Fort Lupton, Colorado, to Allow for the Operation of a Limited Number of Licensed Marijuana Establishments Within Specific Zones in the City of Fort Lupton; Setting the Title and Content of the Ballot for the Election
- e. AM 2024-127 An Ordinance of the City of Fort Lupton Approving the Submission of a Ballot Issue to the Registered Voters Voting in the Coordinated Election to be Held November 5, 2024, a Ballot Issue Pertaining to a Wholesale Marijuana Excise Tax of 1.5% with the Rate of Taxation Not to Exceed 4%; Setting the Title and Content of the Ballot for the Election
- f. AM 2024-128 Approving a Resolution Submitting a Ballot Question at the November 5, 2024, Regular Election, Whether the City of Fort Lupton Should Eliminate the Requirements that Payments of Bills and Statements Concerning Contracts and Rebates be Published in the Newspaper

Adjourn

**RECORD OF PROCEEDINGS
FORT LUPTON CITY COUNCIL/ENTERPRISE BOARDS
July 30, 2024**

The City Council of the City of Fort Lupton met in a special session at the City Complex, 130 South McKinley Avenue, the regular meeting place of the City Council, on Tuesday, July 30, 2024. 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, Valerie Blackston, David Crespin, Bruce Fitzgerald, Carlos Barron and Claud Hanes. Councilmember Chris Ceretto was absent.

Also present were City Administrator, Chris Cross and City Clerk, Mari Peña. City Attorney, Andy Ausmus participated remotely.

APPROVAL OF AGENDA

It was moved by David Crespin and seconded by Valerie Blackston to approve the agenda as presented. Motion passed unanimously on voice vote.

ACTION MEMORANDUM

AM 2024-123 Approving a Resolution of the City Council of Fort Lupton Authorizing the Submittal of an Energy and Mineral Impact Assistance Grant with the Colorado Department of Local Affairs for Fort Lupton Water System Improvements for a Project Cost Estimate of \$15,200,000.00

As a requirement of the Colorado Department of Local Affairs' (DOLA) grant application for Energy and Mineral Impact Assistance Grant funds, City Council must approve a resolution authorizing the City's application submission in order to be considered for the grant.

As part of our grant application for financial assistance for the Fort Lupton Elevated Water Storage Project, City Council must approve a resolution officially authorizing the submission of said application. The estimated total amount of the above-mentioned project is \$15,200,000.00. Of this amount, the City will commit to a ninety-three percent match of \$15,200,000.00 of which is pending submission to the State Revolving Fund (SRF).

The Energy Impact Assistance Fund (EIAF) grant request is a Tier 1 request for \$1,000,000.00 to help cover the City's required funds for the SRF loan.

It was moved by Claud Hanes and seconded by Bruce Fitzgerald to approve Resolution 2024R038
A RESOLUTION OF THE CITY COUNCIL OF FORT LUPTON AUTHORIZING THE SUBMITTAL OF AN
ENERGY AND MINERAL IMPACT ASSISTANCE GRANT WITH THE COLORADO DEPARTMENT OF

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LOCAL AFFAIRS FOR FORT LUPTON ELEVATED WATER STORAGE PROJECT FOR AN AMOUNT OF \$1,000,000.00. Motion passed unanimously on roll call vote.

AM 2024-124 Consideration of an Ordinance to Allow for the Operation of Marijuana Cultivation Facilities, Products Manufacturing Facilities, Research and Development Facilities, Centralized Distribution Permits, and Off-Premises Storage Facility Permits

Mari Peña, City Clerk, stated that on July 16, 2024, the Council was presented the final determination of petition sufficiency. Now the ordinance comes before the Council. The Ordinance may be adopted without change by Council. If the Ordinance is adopted, the initiative process concludes and the Ordinance shall go into effect.

If the Ordinance is not adopted by Council, the ballot question will be submitted at an election of the City, to be held as a coordinated election on November 5, 2024. The title and content of the ballot will be set by the attached Ordinance. The Ordinance shall not go into effect unless approved by the voters of the City of Fort Lupton at the November 5, 2024 election.

Yolanda Clarke, Senior Associate Attorney, with Vicente LLP, provided the Council with a brief overview of the ordinances. She stated she worked with petitioners to draft the process. The ordinance doesn't include transportation and is only eligible for those that have already been approved to hold business operations. There is no requirement it's only an additional opportunity for licensees. By Colorado law you can only have one off premises storage facility with restrictions. The other initiative for the excise tax is not a consumer tax, its an excise tax on the cultivators. When asked who employed Mrs. Clarke, she stated that she is employed by John Paolella.

Mayor Hubbard asked about the regulation of odor mitigation. Mrs. Clarke stated that these requirements aren't laid out in the ordinances, other localities do place restriction and all facilities are restricted to industrial zones. If this were to pass either today or in November additional restrictions can be placed. Additional mitigation may be requested at time of application for a new license. An application for licensure would still be required.

Mayor Hubbard asked if there's a requirement to maintain the grow indoors. Mrs. Clarke stated that the ordinance is not written as such.

John Paolella, 13400 County Road 10, stated that he is a business owner and is always looking to hire. This opportunity will allow business owners to offer more employment. This will also allow for long term flexibility not just operation of a retail business. Mr. Paolella is currently growing in Boulder and has been doing so for 15 years.

Bobby Adams, resident on County Road 10, stated that the previous main discussion was hemp and not this much marijuana. If the Council legalizes it in town, why does he have to go to this

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business, he'll just grow it in his house. Mr. Adams asked if he was going to do the mitigation on the odor. There was a feedlot across town and when dust came in and stuff, the whole town was against the City Council. Odor and mitigation should be the main focus. Lastly, Mr. Adams stated he has a weed burner.

John Rotherham, 10376 County Road 6, is currently a Marijuana license holder. Mr. Rotherham indicated that an excise tax generates tax based on how much is grown and produced. He currently has operations in Denver with hollo units that assist with mitigation.

Doug Massey, 3982 County Road 31, stated that the registered voters of the town should vote rather than a handful of people.

No further discussion occurred.

It was moved by David Crespín and seconded by Claud Hanes to ADOPT ORDINANCE 2024-1169 TO ALLOW FOR THE OPERATION OF MARIJUANA CULTIVATION FACILITIES, PRODUCTS MANUFACTURING FACILITIES, RESEARCH AND DEVELOPMENT FACILITIES, CENTRALIZED DISTRIBUTION PERMITS, AND OFF-PREMISES STORAGE FACILITY PERMITS. Motion failed unanimously on roll call vote. The vote being '0' yes votes and '6' no votes.

AM 2024-125 Consideration of an Ordinance to Enact a New Wholesale Marijuana Excise Tax of 1.5%, Not to Exceed 4%, on the Sale or Transfer of Unprocessed Retail Marijuana by a Licensed Cultivation Facility

On July 16, 2024, the Council was presented the final determination of petition sufficiency. Pursuant to C.R.S § 29-2-102, because the question of whether to enact an excise tax of (1.5) percent on the sale or transfer of unprocessed retail marijuana by a licensed cultivation facility is an increase in sales and use tax, it must be directed to the registered voters.

The ballot issue will be submitted at an election of the City, to be held as a coordinated election on November 5, 2024.

This Ordinance shall not go into effect unless approved by the voters of the City of Fort Lupton at the November 5, 2024 election.

It was moved by David Crespín and seconded by Valerie Blackston to ADOPT ORDINANCE 2024-1170 TO ENACT A NEW WHOLESALE MARIJUANA EXCISE TAX OF 1.5%, NOT TO EXCEED 4%, ON THE SALE OR TRANSFER OF UNPROCESSED RETAIL MARIJUANA BY A LICENSED CULTIVATION FACILITY. Motion failed unanimously on roll call vote. The vote being '0' yes votes and '6' no votes.

AM 2024-126 An Ordinance of the City of Fort Lupton Approving the Submission of a Ballot

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Question to the Registered Voters Voting in the Coordinated Election to be Held November 5, 2024, a Ballot Question if the City Should Amend Ordinance No. 2021- 1127 and the Official Code of the City of Fort Lupton, Colorado, to Allow for the Operation of a Limited Number of Licensed Marijuana Establishments Within Specific Zones in the City of Fort Lupton; Setting the Title and Content of the Ballot for the Election

On July 16, 2024, the Council was presented with the final determination of petition sufficiency on an Initiative. Pursuant to Statute, within 20 days following the final determination of petition sufficiency, the ordinance may be adopted without change by the governing body. If the governing body adopts the ordinance, the initiative process concludes and no election is conducted. If the ordinance is not adopted by the governing body, the governing body shall publish the ordinance as other ordinances are published and set the matter for a regular or special election which shall be held not less than 60 nor more than 150 days after the final determination of petition sufficiency.

It was moved by Carlos Barron and seconded by Claud Hanes to ADOPT ORDINANCE 2024-1171 OF THE CITY OF FORT LUPTON APPROVING THE SUBMISSION OF A BALLOT QUESTION TO THE REGISTERED VOTERS VOTING IN THE COORDINATED ELECTION TO BE HELD NOVEMBER 5, 2024, A BALLOT QUESTION IF THE CITY SHOULD AMEND ORDINANCE NO. 2021- 1127 AND THE OFFICIAL CODE OF THE CITY OF FORT LUPTON, COLORADO, TO ALLOW FOR THE OPERATION OF A LIMITED NUMBER OF LICENSED MARIJUANA ESTABLISHMENTS WITHIN SPECIFIC ZONES IN THE CITY OF FORT LUPTON; SETTING THE TITLE AND CONTENT OF THE BALLOT FOR THE ELECTION. Motion passed unanimously on roll call vote.

AM 2024-127 An Ordinance of the City of Fort Lupton Approving the Submission of a Ballot Issue to the Registered Voters Voting in the Coordinated Election to be Held November 5, 2024, a Ballot Issue Pertaining to a Wholesale Marijuana Excise Tax of 1.5% with the Rate of Taxation Not to Exceed 4%; Setting the Title and Content of the Ballot for the Election

On July 16, 2024, the Council was presented with the final determination of petition sufficiency on an Initiative. Pursuant to Statute, within 20 days following the final determination of petition sufficiency, the ordinance may be adopted without change by the governing body. If the governing body adopts the ordinance, the initiative process concludes.

If the ordinance is not adopted by the governing body, the governing body shall publish the ordinance as other ordinances are published and set the matter for a regular or special election which shall be held not less than 60 nor more than 150 days after the final determination of petition sufficiency.

Because the questions is related to a tax, it is considered a TABOR issue and therefore must be directed to the registered voters

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It was moved by Bruce Fitzgerald and seconded by Valerie Blackston to ADOPT ORDINANCE 2024-1172 OF THE CITY OF FORT LUPTON APPROVING THE SUBMISSION OF A BALLOT ISSUE TO THE REGISTERED VOTERS VOTING IN THE COORDINATED ELECTION TO BE HELD NOVEMBER 5, 2024, A BALLOT ISSUE PERTAINING TO A WHOLESALE MARIJUANA EXCISE TAX OF 1.5% WITH THE RATE OF TAXATION NOT TO EXCEED 4%; SETTING THE TITLE AND CONTENT OF THE BALLOT FOR THE ELECTION. Motion passed unanimously on roll call vote.

AM 2024-128 Approving a Resolution Submitting a Ballot Question at the November 5, 2024, Regular Election, Whether the City of Fort Lupton Should Eliminate the Requirements that Payments of Bills and Statements Concerning Contracts and Rebates be Published in the Newspaper

Pursuant to C.R.S. § 31-20-202(1) the City is required to publish in a newspaper of general circulation, its proceedings related to the payment of bills and publish a statement concerning all contracts awarded and rebates allowed.

C.R.S. § 31-20-202(1.5) provides that the requirement of publication of the proceedings related to the payment of bills and a statement concerning all contracts awarded and rebates allowed is not required if approved by the electorate of the City at the regular or special election.

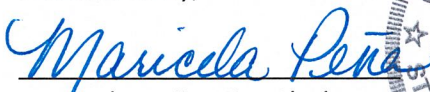
The approval of a ballot question eliminating this requirement will reduce publishing costs and expenses to the City. If the registered voters approve the question, the publications would be on the City's webpage

It was moved by Bruce Fitzgerald and seconded by Valerie Blackston APPROVING RESOLUTION 2024R039 SUBMITTING A BALLOT QUESTION AT THE NOVEMBER 5, 2024, REGULAR ELECTION, WHETHER THE CITY OF FORT LUPTON SHOULD ELIMINATE THE REQUIREMENTS THAT PAYMENTS OF BILLS AND STATEMENTS CONCERNING CONTRACTS AND REBATES BE PUBLISHED IN THE NEWSPAPER. Motion passed unanimously on roll call vote.

ADJOURNMENT

The meeting adjourned at 6:29 p.m.

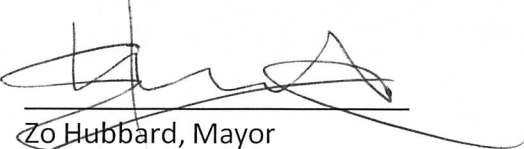
Submitted by,


Maricela Peña, City Clerk



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Approved by City Council,



Zo Hubbard, Mayor

