



## City of Fort Lupton

### REGULAR MEETING AGENDA

Tuesday, April 20, 2021

7:00 PM

130 South McKinley Avenue

**Zo Stieber, Mayor**  
Shannon Rhoda, Ward 1  
Chris Ceretto, Ward 2  
Mike Sanchez, Ward 3  
David Crespin, Ward 1  
Tommy Holton, Ward 2  
Bruce Fitzgerald, Ward 3

You may join in person or join remotely by registering at:  
<https://attendee.gotowebinar.com/register/8202213119026433036>

#### Pledge of Allegiance

#### Call to Order - 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 Stieber

#### Approval of Agenda

#### Review of Accounts Payables

##### a. 04202021 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. March 16, 2021 Amended City Council Meeting Minutes

##### b. April 6, 2021 City Council Meeting Minutes

**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 Stieber

##### a. AM 2021-064 Approve a Resolution for the Transwest Truck and Trailer Phase 3 Lot 1 Site Plan

##### b. AM 2021-065 Approve a Resolution for the Transwest Truck and Trailer Phase 3 Lot 2 Site Plan

##### c. AM 2021-063 Approve the Addition of a Fee for the Waste Water Treatment Plant to Pay the Future Debt Service Required by CDPHE for Reg 85. Fee to be Added to the April 30, 2021 Utility Bill

#### Action Memorandum

- a. AM 2021-066 Approve a Direction for WWTP Upgrade or Regionalize with the Metro Waste Water Reclamation District

### **Staff Reports**

### **Mayor/Council Reports**

### **Future City Events**

- a. Upcoming Events

**Executive Session** "To hold a conference with the City's attorney to receive legal advice on specific legal questions, pursuant to C.R.S. § 24-6-402(4)(b)." Related to investigation into matters involving City business.

### **Adjourn**

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**RECORD OF PROCEEDINGS**  
**FORT LUPTON CITY COUNCIL/ENTERPRISE BOARDS**  
**April 20, 2021**

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, April 20, 2021. Due to the COVID-19 virus, the meeting was held with remote access provided through GoToWebinar. Mayor Zo Stieber called the meeting to order at 7:00 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 Stieber, Councilmembers Chris Ceretto, Michael Sanchez, and Bruce Fitzgerald. Councilmembers Shannon Rhoda and David Crespin participated remotely through GoToWebinar. Councilmember Tommy Holton appeared by phone at 7:09 p.m.

Also present were City Administrator, Chris Cross, Assistant City Administrator, Glenda Aretxuloeta, City Clerk, Mari Pena, City Attorney, Andy Ausmus, Finance Director, Leann Perino, and Planning Director, Todd Hodges.

City Planner, Maria Lancto, participated remotely through GoToWebinar.

Mayor Stieber read the general advisement for connected meetings.

**PERSONS TO ADDRESS COUNCIL**

There was no one to address the Council.

**REVIEW OF ACCOUNTS PAYABLES**

Council reviewed the April 20, 2021, payables; there were no questions or comments from the Mayor or Council.

**APPROVAL OF AGENDA**

It was moved by Bruce Fitzgerald and seconded by Michael Sanchez to approve the Agenda as presented. Motion passed unanimously on roll call vote.

**CONSENT AGENDA**

It was moved by Bruce Fitzgerald and seconded by Chris Ceretto to approve the Consent Agenda as presented with the following items: March 16, 2021 Amended City Council Meeting Minutes, April 6, 2021 City Council Meeting Minutes. Motion passed unanimously on roll call vote.

**RECORD OF PROCEEDINGS**  
**FORT LUPTON CITY COUNCIL/ENTERPRISE BOARDS**  
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**PUBLIC HEARINGS**

**AM 2021-064 Approve a Resolution for the Transwest Truck and Trailer Phase 3 Lot 1 Site Plan**

Mayor Stieber read the following advisement to Kyle Schmidt: You understand that members of the City Council may be appearing tonight via a virtual connection and may not be appearing in person? You consent to the applicable member voting on your submittal even though said member is not present in person? You understand that the Applicant has a right to continue this public hearing to such a date to allow a full in person public hearing? You have agreed to voluntarily waive that right on behalf of the Applicant by proceeding tonight electronically, is that correct? On behalf of the Applicant, you have voluntarily signed and submitted the written waiver and consent to proceed electronically tonight, correct? Therefore, on behalf of the Applicant, you waive Applicant's right to proceed in an in person public hearing and have consented to proceed forward voluntarily tonight in this virtual City Council meeting, is that correct? Mr. Schmidt responded 'yes' to all questions.

Mayor Stieber opened the public hearing at 7:13 p.m.

The City Planner, Maria Lancto, stated that GEP Investments, Inc. has submitted an application for a site plan for the addition of a 30,550 square foot building in the northern portion of their property. This facility will be used for the repair of auto transport trailers and units. There is an existing 78,700 square foot facility which will continue to be used for assembly and manufacturing of components for specialty vehicles. The site plan will also account for new lot lines and easements that have been conditionally approved by staff as part of an amended plat administrative review process. The property is surrounded by Industrial and Agricultural zoning, as well as Residential-Office zoning to the north. Impact to the residential properties located north and northeast of this site will be mitigated through screening and landscaping. All notification requirements have been met including mailings, publications and posting.

The Property is located within the 'I-1' Light Industrial Zone District. Auto, truck, boat, trailer and farm equipment sales, services and repairs, is permitted in the 'I-1' Light Industrial Zone District. In addition, manufacturing, fabrication, processing, distribution or assembly facilities are a use by right in the 'I-1' Light Industrial Zone District; provided that all external effects are limited per the Code. Finally, the Fort Lupton Comprehensive Plan designates this area for industrial land uses. This designation allows for a mix of heavy and light industrial users as well as office development. Therefore, the use complies with the zoning and comprehensive plan's land use designation for this property.

Mr. Schmidt, Operations Manager, stated that he was excited to start this service facility. The facility will house an auto transport service from this facility.

Mayor Stieber asked Councilmembers Shannon Rhoda, David Crespin and Tommy Holton if they were able to see and hear the entire presentation. All Councilmembers responded 'yes.'

Mayor Stieber asked if anyone from the public would like to speak for or against the proposal;

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hearing none, Mayor Stieber closed the public hearing at 7:18 p.m.

It was moved by Chris Ceretto and seconded by Bruce Fitzgerald to approve Resolution 2021R027 APPROVING THE TRANSWEST TRUCK AND TRAILER PHASE 3 LOT 1 SITE PLAN FOR THE ADDITION OF A 30,550 SQUARE FOOT BUILDING AT 13525 COUNTY ROAD 8. Motion passed unanimously on roll call vote.

**AM 2021-065 Approve a Resolution for the Transwest Truck and Trailer Phase 3 Lot 2 Site Plan**

Mayor Stieber read the following advisement to Kyle Schmidt: You understand that members of the City Council may be appearing tonight via a virtual connection and may not be appearing in person? You consent to the applicable member voting on your submittal even though said member is not present in person? You understand that the Applicant has a right to continue this public hearing to such a date to allow a full in person public hearing? You have agreed to voluntarily waive that right on behalf of the Applicant by proceeding tonight electronically, is that correct? On behalf of the Applicant, you have voluntarily signed and submitted the written waiver and consent to proceed electronically tonight, correct? Therefore, on behalf of the Applicant, you waive Applicant's right to proceed in an in person public hearing and have consented to proceed forward voluntarily tonight in this virtual City Council meeting, is that correct? Mr. Schmidt responded 'yes' to all questions.

Mayor Stieber opened the public hearing at 7:20 p.m.

The City Planner, Maria Lancto, stated that GEP Investments, Inc. has submitted an application for a site plan for a lot currently utilizing a 79,200 square foot trailer manufacturing facility. A 6,000 square foot storage building and associated parking are also shown on the site plan. There are no proposed changes to the land use of Lot 2, however the amended plat that was concurrently submitted would impact the lot lines and utility easements on the lot, requiring a new site plan. The amended plat has been reviewed administratively and conditionally approved by staff. The property is surrounded by industrial zoning. All notification requirements have been met including postings and notifications to surrounding property owners.

The Property is located within the 'I-1' Light Industrial Zone District. Auto, truck, boat, trailer and farm equipment sales, services and repairs, is permitted in the 'I-1' Light Industrial Zone District. In addition, manufacturing, fabrication, processing, distribution or assembly facilities are a use by right in the 'I-1' Light Industrial Zone District; provided that all external effects are limited per the Code. Finally, the Fort Lupton Comprehensive Plan designates this area for industrial land uses. This designation allows for a mix of heavy and light industrial users as well as office development. The existing use of the property was approved through a previous site plan.

Mr. Schmidt stated that the lot will continue as in the past and there are no changes.

Mayor Stieber read the following advisement to Mr. Schmidt: Have you had a full and fair opportunity to present all facts, submittals, documents, testimony and presentations in support of

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the Applicant's application before the City Council tonight? Mr. Schmidt responded 'yes'. Has there been anything that you or the Applicant would have liked to have presented in support of Applicant's application that you feel you were prevented from doing so? Mr. Schmidt responded 'no'.

Mayor Stieber asked if anyone from the public would like to speak for or against the proposal; hearing none, Mayor Stieber closed the public hearing at 7:22 p.m.

It was moved by Bruce Fitzgerald and seconded by Michael Sanchez to approve Resolution 2021R028 A RESOLUTION APPROVING THE TRANSWEST TRUCK AND TRAILER PHASE 3 LOT 2 SITE PLAN AT 13517 COUNTY ROAD 8. Motion passed unanimously on roll call vote.

**AM 2021-063 Approve the Addition of a Fee for the Waste Water Treatment Plant to Pay the Future Debt Service Required by CDPHE for Reg 85. Fee to be Added to the April 30, 2021 Utility Bill**

Mayor Stieber opened the public hearing at 7:24 p.m. The Finance Director, Leann Perino, stated that this was the second required public hearing. The Colorado Department of Public Health and Environment (CDPHE) was tasked by the Environmental Protection Agency with enforcing regulations limiting the amount of phosphates and nitrogen put into rivers by waste water treatment plants in Colorado. To costs of upgrades and alternatives will require the City to take out debt in the form of a loan or bond issue. The new fee will pay the annual debt service payment. The request for the initial fee in 2021 is as follows:

| <u>Residential</u>               | <u>Per Month</u> |
|----------------------------------|------------------|
| Single Family Home               | \$ 20.00         |
| Multi-Family ( <b>per unit</b> ) | 20.00            |
| 6" Tap                           | 4,360.00         |
| <u>Commercial</u>                |                  |
| 3/4 "                            | \$ 40.00         |
| 1 "                              | 96.00            |
| 1.5"                             | 220.00           |
| 2"                               | 400.00           |
| 3"                               | 860.00           |
| 4"                               | 1,660.00         |

Mayor Stieber asked if anyone from the public would like to speak for or against the proposal; hearing none, Mayor Stieber closed the public hearing at 7:25 p.m.

It was moved by Chris Ceretto and seconded by David Crespino to approve Resolution 2021R029 A RESOLUTION OF THE UTILITY ENTERPRISE BOARD ADDING A WASTE WATER TREATMENT DEBT SERVICE FEE. Motion passed unanimously on roll call vote.

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**ACTION AGENDA**

**AM 2021-066 Approve a Direction for WWTP Upgrade or Regionalize with the Metro Waste Water Reclamation District.**

The City obtained a renewal of the Colorado Water Quality Control Act discharge permit for the Wastewater Treatment Plant in 2018. A condition of the renewal was a Compliance Schedule to meet Total Inorganic Nitrogen (TIN) and Total Phosphorus (TP) discharge limits. The compliance schedule requires completion of construction and compliance with discharge limits by January 31, 2023.

Staff has researched options that included the possibility of joining the Metro Wastewater District, "Metro".

| <b>WWTP UPGRADE</b> |                                                              | <b>METRO DISTRICT</b>                                     |
|---------------------|--------------------------------------------------------------|-----------------------------------------------------------|
| Initial Cost        | \$ 38 M - \$ 42 M                                            | \$ 39 M - \$ 45 M                                         |
| 20-Yr System Cost   | \$ 90 M                                                      | \$ 82 M                                                   |
| O&M Cost            | \$ 1,057,653.00 (2021 Budget)                                | \$ 1,315,900.00 (est)                                     |
| Pros                | Known project timeline                                       | Regulation risk transfer to METRO                         |
|                     | City Control of WWTP services                                | Economy of scale                                          |
|                     | \$1,500,000 already spent for Design engineering and permits | Pretreatment program                                      |
| Cons                | Unknown future regulation upgrades                           | Will require extension of compliance schedule with CDPH&E |
|                     | Future upgrades and ongoing Maintenance                      | ROW Acquisition challenges for pipeline easement          |
|                     |                                                              | Maintenance / Risk Exposure 8-mile Pipeline               |
|                     |                                                              | Water Court required for discharge location               |

Mayor Stieber asked if anyone from the public wished to speak.

Don Summers, General Manager for Todd Creek Village Metropolitan District, stated that Todd Creek has an existing Intergovernmental Agreement with Fort Lupton. Mr. Summers indicated that Todd Creek is committed to the relationship with Fort Lupton and will be committed to the

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Council's decision. Todd Creek has also completed its analysis of moving toward the expansion of the treatment plant or moving to Metro. His analysis included route, pricing, and construction of lift stations. Mr. Summers stated that Metro would service the citizens in the long term while the State and EPA are pushing for regionalization. If city keeps the treatment plan, Todd creek is committed, and keep the cost lower to Metro. Overall, Fort Lupton can reduce costs by working with Todd Creek and assets of both entities from the City and Todd Creek can be utilized to plan to meet deadlines of the requirements needed. Todd creek prefers Metro Wastewater for relative safety.

Ron Schyler, resident of Fort Lupton and retired engineer, stated that he has had the opportunity to review issues. The current facility is great but could use the upgrades. Mr. Schyler doesn't feel comfortable with the costs associated with Metro. Since the treatment plant belong to the City, it's the City's responsibility to maintain the plant. If the City moves to Metro, the City will have limited say due to the City's size, however the maintenance responsibility is with Metro. Timing is important, the upgrade project of the plant can start soon, however if the City goes with Metro, it may take longer. This is a political decision. Mr. Schyler indicated that the engineering reports calculations water treatment of water shouldn't be there. The numbers don't make sense and he asked the City to review the numbers. Mr. Schyler thanked the Council and wished he had a definitive answer for them.

Mayor Stieber asked Mr. Schyler to provide an overview of his determination for analyzing the BOD "Biological oxygen demand" load. Mr. Schyler stated that there is a high BOD load at treatment plant. Typically, there is .2 lbs of BOD per person per day. Table 8 in the engineering report by Burns and McDonnell indicated the average of .44 lbs of BOD per person per day. Mr. Schyler suggested the City do a composite sampler by setting it up on a time or flow basis so the City can take a sample at certain times. The City can analyze by starting at the treatment plant then going to the first Y and find out where there is more load, and go to the next Y to the spot where the BOD is coming from. It's highly unlikely the BOD is coming from all over; the focus should be on where the load is coming from.

Chris Cross presented Pros and Cons for both the WWTP Upgrade vs. Metro. The Pros for the WWTP Upgrade were as follows: known project timeline, City control of WWTP services, and \$1,500,000 already spent for design engineering and permits. The Pros for Metro were as follows: regulation risk transfer to Metro, economy of scale, and pretreatment program. Cons listed for the WWTP Upgrade included: unknown future regulation upgrades, and future upgrades and ongoing maintenance. The Cons for Metro were: extension required for compliance schedule with CDPH&E, right of way acquisition challenges for pipeline easement, maintenance/risk exposure of an 8-mile pipeline, water court acquired discharge location.

Mayor Stieber stated that this is a tough decision with regulations 31-39 coming forth as well. We must look towards the future.

Tommy Holton stated that the State can't measure regulation 31. Mr. Holton stated he'd rather base his decision on probabilities and he doesn't know what politics is going to do. If regulation 31 can't be measured then why is the City preparing for it? Regulation 31 hasn't been mandated by the State.

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Chris Ceretto stated the he doesn't know that in 50 years, if the correct decision will be made today.

Bruce Fitzgerald stated that Metro has 22 participants.

Brandy DeLange, Government Affairs Liaison with Metro Wastewater, stated that Metro has about a 25-person board and that the City's level of participation is important.

Ms. DeLange was asked how many customers don't have a board seat? Ms. Delange stated that special connectors are through contracts. The number board members are based on population of 75,000. The City will have 1 board representation due to its population. The population is evaluated every four (4) years. Mr. DeLange also stated that Metro services over 60 local governments.

Lastly, Ms. DeLange explained that special connectors don't have board members only municipal connectors.

Mary Perrina, participating through GoToWebinar chat, asked what happens when land owner won't sell city easement, will eminent domain be used, and what is the cost of an easement.

Mayor Stieber stated that the City is discussing easements with the Weld County. The County already has easements and the City would like to work in partnership with them in order to not be required to obtain easements. The City is hoping to have more discussions on this topic.

The Public Works Director, Roy Vestal stated that the easement cost is based on surveying square footage cost and dependent on zoning. Estimates included an assumption ½ mile by 20 feet wide with \$4 per square foot.

Brandy DeLange stated that the City of Brighton was the was the last city to join Metro.

Ron Schyler stated that he liked the idea of keeping the plant.

Don Summers explained that Todd creek is used to eminent domain issues and has had to building a lot of new pipeline. He referenced this before and made it more vaguely this time.

Discussion occurred between the Council and the City Attorney regarding the motion and at what point the City may withdrawal from contractual obligations to Metro.

Brandy DeLange indicated that the City would have the ability to stop moving forward or prior to signing on the dotted line; up until the point of infrastructure.

Mike Sanchez made a motion to provide direction to staff to negotiate with Metro as an option for the wastewater treatment program. The motion was seconded by Bruce Fitzgerald. Motion passed with 5 'yes' votes and 2 'no' votes from Tommy Holton and Chris Ceretto.

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**POINT OF PRIVILEGE**

Mayor Stieber stated that received and reviewed a legal memo from the city attorney and based on the memo I would like to reconsider that matter therefore I would entertain a motion to reconsider Resolution 2021R026 a Resolution approving the United Fulton Augmentation Station and Pipeline project Special Use Permit. It was moved by Chris Ceretto and seconded by Bruce Fitzgerald to reconsider Resolution 2021R026 A RESOLUTION APPROVING THE UNITED FULTON AUGMENTATION STATION AND PIPELINE PROJECT SPECIAL USE PERMIT Motion passed with David Crespino abstaining to the motion since he was absent the day of the hearing for the United Fulton Augmentation Station and Pipeline Project Special Use Permit hearing.

Mayor Stieber stated that based on the fact that the public hearing was closed after ample testimony from the applicant and public there will be no additional presentation or comments. Mayor Stieber asked for a motion to approve 2021R026 A RESOLUTION APPROVING THE UNITED FULTON AUGMENTATION STATION AND PIPELINE PROJECT SPECIAL USE PERMIT. It was moved by Tommy Holton and seconded by Bruce Fitzgerald to approve Resolution 2021R026 A RESOLUTION APPROVING THE UNITED FULTON AUGMENTATION STATION AND PIPELINE PROJECT SPECIAL USE PERMIT.

**STAFF**

Chris Cross thanked staff for their work on the wastewater treatment plant. He also stated that due to a pre-annexation agreement with Lupton Meadows, he is drafting letter for first right of refusal due to price for water.

Glenda McCarroll stated that her and Jon Mays met with Steve Ngyuen and staff from Clear Water Solutions to fill out a risk assessment questionnaire on physical and cyber security. Clear Water Solutions is on schedule to meet the June 30th deadline.

**MAYOR/COUNCIL REPORTS**

There were no reports from the Mayor or Council.

**FUTURE CITY EVENTS**

|                |                                                                  |
|----------------|------------------------------------------------------------------|
| Month of April | Citywide Clean Up Days - Voucher Program                         |
| April 22, 2021 | Shredding Day, City Hall, 130 S. McKinley Ave., 8 a.m. – 10 a.m. |

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|                |                                                      |
|----------------|------------------------------------------------------|
| April 22, 2021 | Clean Up Day for Seniors                             |
| April 20, 2021 | City Council Meeting, 130 S. McKinley Ave. 7:00 p.m. |
| April 27, 2021 | Town Hall Meeting, 130 S. McKinley Ave. 6:30 p.m.    |
| May 1, 2021    | Cinco de Mayo 5K, Railroad Park, 10 a.m.             |
| May 4, 2021    | City Council Meeting, 130 S. McKinley Ave. 7:00 p.m. |

**EXECUTIVE SESSION**

There was no Executive Session.

**ADJOURNMENT**

Mayor Stieber adjourned the meeting at 8:12 p.m.

Respectfully Submitted,

  
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Maricela Peña, City Clerk

Approved by City Council

  
\_\_\_\_\_  
Zo Stieber, Mayor

