

City of Fort Lupton

REGULAR MEETING AGENDA

Tuesday, April 6, 2021

7:00 PM

130 South McKinley Avenue

Zo Stieber, Mayor

Shannon Rhoda, Ward 1

Chris Ceretto, Ward 2

Mike Sanchez, Ward 3

David Crespín, 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. 04062021 Accounts Payable

Executive Session "To determine positions relative to matters that may be subject to negotiations, develop a strategy for negotiations, and/or instruct negotiators, pursuant to C.R.S. § 24-6-402(4)(e)." Waste Water Treatment

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. 03162021 City Council Meeting Minutes

b. 03182021 Public Meeting Minutes

c. 03302021 City Council Special Meeting Minutes

d. Second Reading Ordinance 2021-1109 An Ordinance Annexing Land Legally Described in Exhibit "A" Known as the Alquist Annexation and Approving the Annexation Agreement

e. Second Reading Ordinance 2021-1110 Adopting an Ordinance Initially Zoning Land Known as the Alquist Initial Zoning, Legally Described in Exhibit A, to the 'A' Agricultural Zone District

f. AM 2021-052 Approving a Resolution Ratifying the Extension of the One Half of One Percent (.5%) Sales and Use Tax for Street Improvements to December 31, 2031, as Approved by the Electors at the November 3, 2020 Coordinated Election

- g. AM 2021-053 Approving a Resolution Ratifying the Extension of the One Half of One Percent (.5%) Culture Park and Recreation Sales and Use Tax to December 31, 2041, as Approved by the Electors at the November 5, 2019, Coordinated Election
- h. AM 2021-054 Approving Payment to Northern Colorado Water Conservancy District (NCWCD) for Initial Construction and Engineering (C&E) on the Windy Gap Firing Project for \$92,558.20 from the Water Sales Tax Fund
- i. AM 2021-057 Approving Submittal of an Application for Inclusion Into the Northern Colorado Water Conservancy District for the Property at 1310 14th Street - Alquist Annexation
- j. Am 2021-060 Approving a Resolution Increasing the Engraving Fee for the Columbarium Doors at Hillside Cemetery
- k. AM 2021-062 Pay Clear Water Solutions \$52,160.00 for Professional Services to Create a Risk and Resilience Assessment and Emergency Response Plan to Comply with the America's Water Infrastructure Act

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 2021-059 Approve a Resolution for the United Fulton Augmentation Station and Pipeline Project Special Use Permit
- b. Withdrawal of the Hagler Annexation, Hagler Initial Zoning, and Hagler Special Use Permit Applications
- c. AM 2021-055 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
- d. AM 2021-058 Approve a Resolution Adopting an Intergovernmental Agreement with the Town of Firestone Regarding Growth and Planning Area

Action Memorandum

- a. AM 2021-056 Amending Resolution 2019R019 Revising the Water and Sewer Infrastructure Investment Fee Schedule
- b. AM 2021-061 Accepting the Bid from D2C Architects and Awarding the Contract for Planning, Design and Consultation Services for the Fort Lupton Shooting Park for an Amount not to Exceed \$50,000

Staff Reports

Mayor/Council Reports

Future City Events

a. 04062021 Upcoming Events

Adjourn

RECORD OF PROCEEDINGS
FORT LUPTON CITY COUNCIL/ENTERPRISE BOARDS
April 6, 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 6, 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 Shannon Rhoda, Chris Ceretto, Michael Sanchez, Bruce Fitzgerald and Tommy Holton.

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

City Planner, Alyssa Knutson, participated remotely through GoToWebinar.

PERSONS TO ADDRESS COUNCIL

There was no one to address the Council.

REVIEW OF ACCOUNTS PAYABLES

Council reviewed the April 6, 2021, payables; there were no questions or comments from the Mayor or Council.

APPROVAL OF AGENDA

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

EXECUTIVE SESSION

Mayor Stieber asked for a motion to move into executive session "To determine positions relative to matters that may be subject to negotiations, develop a strategy for negotiations, and/or instruct negotiators, pursuant to C.R.S. § 24-6-402(4)(e)" Waste Water Treatment. It was moved by Tommy Holton and seconded by Bruce Fitzgerald to move into Executive Session. Motion passed unanimously on roll call vote.

The following entered into executive session at 7:01 p.m.: Mayor Stieber, Councilmembers, Shannon Rhoda, Michael Sanchez, Chris Ceretto, Bruce Fitzgerald and Tommy Holton. Also City Administrator, Chris Cross, Assistant City Administrator, Glenda McCaroll, City Attorney, Andy Ausmus, and Finance Director, Leann Perino.

The Executive Session ended at 7:29 p.m. and the regular meeting reconvened at 7:29 p.m.

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CONSENT AGENDA

It was moved by Chris Ceretto and seconded by Tommy Holton to approve the Consent Agenda as presented with the following items: 03162021 City Council Meeting Minutes, 03182021 Public Meeting Minutes, 03302021 City Council Special Meeting Minutes, Second Reading Ordinance 2021-1109 AN ORDINANCE ANNEXING LAND LEGALLY DESCRIBED IN EXHIBIT "A" KNOWN AS THE ALQUIST ANNEXATION AND APPROVING THE ANNEXATION AGREEMENT, Second Reading Ordinance 2021-1110 AN ORDINANCE ADOPTING AN ORDINANCE INITIALLY ZONING LAND KNOWN AS THE ALQUIST INITIAL ZONING, LEGALLY DESCRIBED IN EXHIBIT A, TO THE 'A' AGRICULTURAL ZONE DISTRICT, Approving Resolution 2021R023 A RESOLUTION RATIFYING THE EXTENSION OF THE ONE HALF OF ONE PERCENT (.5%) SALES AND USE TAX FOR STREET IMPROVEMENTS TO DECEMBER 31, 2031, AS APPROVED BY THE ELECTORS AT THE NOVEMBER 3, 2020 COORDINATED ELECTION (AM 2021-052), Approving Resolution 2021R024 A RESOLUTION RATIFYING THE EXTENSION OF THE ONE HALF OF ONE PERCENT (.5%) CULTURE PARK AND RECREATION SALES AND USE TAX TO DECEMBER 31, 2041, AS APPROVED BY THE ELECTORS AT THE NOVEMBER 5, 2019, COORDINATED ELECTION (AM 2021-053), Approving Payment to Northern Colorado Water Conservancy District (NCWCD) for Initial Construction and Engineering (C&E) on the Windy Gap Firing Project for \$92,558.20 from the Water Sales Tax Fund (AM 2021-054), Approving Submittal of an Application for Inclusion Into the Northern Colorado Water Conservancy District for the Property at 1310 14th Street - Alquist Annexation (AM 2021-057), Approving Resolution 2021R025 A RESOLUTION INCREASING THE ENGRAVING FEE FOR THE COLUMBARIUM DOORS AT HILLSIDE CEMETERY (AM 2021-060), Pay Clear Water Solutions \$52,160.00 for Professional Services to Create a Risk and Resilience Assessment and Emergency Response Plan to Comply with the America's Water Infrastructure Act (AM 2021-062). Motion passed unanimously on roll call vote.

PUBLIC HEARINGS

AM 2021-059 Approve a Resolution for the United Fulton Augmentation Station and Pipeline Project Special Use Permit

Mayor Stieber opened the public hearing at 7:34 p.m. and asked for a description of the project.

The City Planner, Alyssa Knutson, stated that United Water & Sanitation District (the "Applicant") has submitted a special use permit application for a 30" below grade gravity pipeline that will convey raw water from the Fulton Ditch to the South Platte River for augmentation purposes. Easements have been acquired for the pipeline to cross the parcels located with the City of Fort Lupton, excluding the Theodore Shipman R Living Trust, which is part of the ownership group for the project. The properties that are included within this special use permit application are zoned either 'A' Agricultural (the Theodore R. Shipman Living Trust parcel), I-1 Light Industrial (the Villano Brothers Properties, Inc. parcels), or I-2 Heavy Industrial. While the proposed pipeline is not specifically mentioned as a use by right in these zone districts, these zone districts list public utility facilities as permitted uses subject to the special use review and

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approval procedures set forth under Section 16-7 of the Fort Lupton Municipal Code. This proposal is of similar or like use and therefore requires a special use permit. All notification requirements for this matter have been met.

Andrew Damiano with United Water and Sanitation District, provided an overview of the project location indicating that pipe line would run along the County Road 8 ½ alignment and parallels an existing utility corridor with an existing gas-line and water line. Mr. Damino indicated that there would be no pump station and no above grade structures; only man holes specifically located on properties where future uses would not be affected. The purpose of the project is to convey water owned by United, decreed in the Fulton Ditch, and move water via gravity through a 30" pipe line back to the South Platte River. The pipeline would then go under Highway 85 with an 18" culvert to deliver water to the Platte River. The pipeline would cross the following properties: Basalite Building Products, Brighton Industrial North, and Leroy & Brenda Sack. The location of easements are on the backside of the property. Mr. Damiano explained that all permits thus far have been obtained including flood permits, Fulton Ditch approvals, railroad approvals and Weld County and State permits. Mr. Damiano will provide responses to all referral comments that were received by the City.

Mayor Stieber asked if anyone from the public wished to speak for or against the proposal.

Mr. Leroy Sack, a Fort Lupton resident stressed concerns over how unfairly he was treated by United property representatives. Mr. Sack indicated he was forced into eminent domain. He also stated that that he should have received just compensation for his portion of the easement. Mr. Sack asked the Council to not approve the project.

The City Attorney, Andy Ausmus stated that Mr. Sack had the opportunity to litigate the condemnation matter if he chose to do it. Just because the property was annexed into the City, the City does not have the ability to protect him from condemnation. Respectfully, this isn't the forum to discuss the litigation. All issues being raised would have been litigated in the condemnation case. The easements were acquired via condemnation with certain qualifiers for condemnation. There was a voluntary settlement that was reached. The matter was litigated and resolved because the easement was acquired.

Tommy Holton stated that Weld County doesn't condemn properties.

Mike Brashear, son in law of Leroy Sack, stated that United didn't purchase the right of way. The property was taken through eminent domain. Mr. Brashear stated that while Mr. Sack did receive \$60,000 for the easement, he didn't received just compensation. He also stated that the City has many logos, one of which is "come paint your future with us". Mr. Brazier stated that his father in law did annex into the City to paint his future. The City should protect its residents. The property has been impacted because now no buildings can be placed over the existing pipeline. He asked the Council to not approve the project.

Mr. Damino stated that upon the initial contact with Mr. Sack, Mr. Sack's property was zoned agriculture in the County. Mr. Sack has been compensated more than the Agriculture value and that was compensated at industrial value due to the court process.

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Mr. Brashear stated that if the pipeline would be brought in on the other side, there would be less future impact.

Mayor Stieber asked if United spoke to Anadarko regarding the line. Mr. Damiano stated that there were conversations and that the pipeline is as close to the easement as possible.

Emily Knackstedt, Landman with United, stated that the placement of the pipeline is as close as can safely be placed to the Anadarko lines.

There being no further discussion, Mayor Stieber closed the public hearing at 8:01 p.m.

It was moved by Tommy Holton and seconded by Shannon Rhoda to approve Resolution 2021R026 A RESOLUTION APPROVING THE UNITED FULTON AUGMENTATION STATION AND PIPELINE PROJECT SPECIAL USE PERMIT. The motion failed with 0 'yes' votes and 6 'no' votes by Mayor Stieber, Councilmembers Bruce Fitzgerald, Michael Sanchez, Shannon Rhoda, Chris Ceretto and Tommy Holton.

Withdrawal of the Hagler Annexation, Hagler Initial Zoning, and Hagler Special Use Permit Applications

The Planning Director, Todd Hodges, indicated that the Hagler Annexation, Hagler Initial Zoning and the Hagler Special Use Permit applications have been withdrawn.

Mayor Stieber called for a recess at 8:13 p.m. The meeting reconvened at 8:20 p.m.

AM 2021-055 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,

Mayor Stieber opened the public hearing at 8:21 p.m. and asked for a description of the project.

The Finance Director, Leann Perino, stated that 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. The 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 (per unit)	20.00
6" Tap	4,360.00
<u>Commercial</u>	
¾ "	\$ 40.00
1"	96.00
1.5"	220.00

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2"	400.00
3"	860.00
4"	1,660.00

Mayor Stieber asked if anyone from the public wished to speak for or against the proposal. Hearing none, Mayor Stieber closed the public hearing at 8:25 p.m.

This item requires two public hearings therefore, the next public hearing will be held on April 20, 2021.

AM 2021-058 Approve a Resolution Adopting an Intergovernmental Agreement with the Town of Firestone Regarding Growth and Planning Area

Mayor Stieber opened the public hearing at 8:25 p.m. and asked for a description of the project.

The City Administrator Chris Cross, stated that staff has worked diligently with the Town of Firestone staff to bring forth an agreement that works for both municipalities and creates a boundary for future growth and planning areas within each municipality. The principal line used for the agreement is County Road 19 between ½ mile south of County Road 18 to County Road 24.

Mayor Stieber asked if anyone from the public wished to speak for or against the proposal. Hearing none, Mayor Stieber closed the public hearing at 8:28 p.m.

No further discussion occurred.

It was moved by Tommy Holton and seconded by Tommy Holton and seconded by Bruce Fitzgerald to approve Resolution 2021R026 A RESOLUTION ADOPTING AN INTERGOVERNMENTAL AGREEMENT WITH THE TOWN OF FIRESTONE REGARDING GROWTH AND PLANNING AREA. Motion passed unanimously on roll call vote.

ACTION AGENDA

AM 2021-056 Amending Resolution 2021R019 Revising the Water and Sewer Infrastructure Investment Fee Schedule

Resolution 2021R019 approved by Council on March 2, 2021 becomes effective April 5, 2021 increasing the Plant Investment Fees. The City's previous structure for different sizes of water tap fees were based on potential water usage. The proposed changes for different sizes of taps were similarly graduated for the proposed increase based on the costs of a ¾" service tap.

It was moved by Chris Ceretto and seconded by Tommy Holton to approve the amendment of Resolution 2021R019 A RESOLUTION OF THE CITY COUNCIL ACTING AS THE FORT LUPTON UTILITY ENTERPRISE BOARD REVISING THE WATER AND SEWER PLANT INVESTMENT SCHEDULE EFFECTIVE APRIL 5, 2021. Motion passed unanimously on roll call vote.

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AM 2021-061 Accepting the Bid from D2C Architects and Awarding the Contract for Planning, Design and Consultation Services for the Fort Lupton Shooting Park for an Amount not to Exceed \$50,000

D2C was chose after and RFQ and selection process. The cost for the basic proposal is not to exceed \$50,000 and provides a services list of additional available services that would be approved separately from this AM. The proposal includes D2C assisting with public meetings needed as the project progresses. The product of this proposal will offer the City a choice of phased development for range amenities. It was moved by Tommy Holton and seconded by Bruce Fitzgerald to accept the bid from D2C Architects and Awarding the contract for planning, design and consultation services for the Fort Lupton Shooting Park for an amount not to exceed \$50,000.00. Motion passed unanimously on roll call vote.

It was moved by Tommy Holton and seconded by Bruce Fitzgerald to accept the bid from D2C Architects and award the contract for planning, design and consultation services for the Fort Lupton Shooting Park for an amount not to exceed \$50,000. Motion passed unanimously on roll call vote

STAFF

The Public Works Director stated that Kahil Street is under construction for the paving.

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 11-17, 2021	Hillside Cemetery Clean Up, 13750 County Road 12
April 22, 2021	Shredding Day, City Hall, 130 S. McKinley Ave., 8 a.m. – 10 a.m.
April 22, 2021	Clean Up Day for Seniors
April 27, 2021	Town Hall Meeting, 130 S. McKinley Ave. 6:30 p.m.

EXECUTIVE SESSION

It was moved by Tommy Holton and seconded by Michael Sanchez to move to 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 legal matters involving City business" Motion passed unanimously on roll call vote.

The following entered into the Executive Session at 8:44 p.m.: Mayor Stieber, Councilmembers

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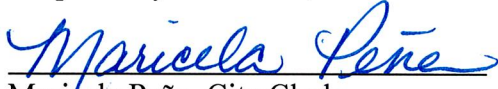
Shannon Rhoda, Michael Sanchez, Chris Ceretto, Bruce Fitzgerald and Tommy Holton. Also City Attorney, Andy Ausmus.

The executive session ended at 9:58 p.m. and the regular meeting reconvened at 9:58 p.m.

ADJOURNMENT

Mayor Stieber adjourned the meeting at 9:59 p.m.

Respectfully Submitted,



Maricela Peña, City Clerk

Approved by City Council



Zo Stieber, Mayor

