



City of Fort Lupton

REGULAR MEETING AGENDA

Tuesday, September 21, 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. September 21, 2021 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 7, 2021 City Council Meeting Minutes

b. Second Reading Ordinance 2021-1125 A Ordinance of the City Council of Fort Lupton Accepting the Richard Allen and Deborah L. Smith Public Right of Way Dedication for CR 24

c. AM 2021-149 Award Contract for Geotechnical Groundwater Study of Groundwater at 305 Wagonwheel to Cesar, Inc. for an Amount not to Exceed \$6,500.00 From Engineering General Fund

d. AM 2021-150 Approve Payment to the 2022 Colorado Big Thompson (CBT) Assessment From the Utility Fund for an Amount Not to Exceed \$153,961.70

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 2021-152 Seeking Determination of a Tavern License Renewal for Silvermoon, LLC DBA Silvermoon Bar and Cafe Located at 334 Main Street

- b. AM 2021-151 Approve a Resolution Accepting the Been Minor Subdivision to Create Four Separate Lots on a Property Located in the Northeast Quarter of Section 16

Action Memorandum

- a. AM 2021-153 Accepting the City of Fort Lupton's Audit Report of Financial Statements for the Year Ending December 31, 2020
- b. AM 2021-154 Approving a Resolution Authorizing the Temporary Suspension of Enforcement of Sections 16-144 and 16-146 of the Fort Lupton Municipal Code for 90 Days
- c. AM 2021-155 Approve Entering Contract Negotiations with Top Ranked Firm for WWTP Lift Station Design and Authorize Negotiation of Agreement

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)." golf course

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)." Update on settlement negotiations

Adjourn

**RECORD OF PROCEEDINGS
FORT LUPTON CITY COUNCIL/ENTERPRISE BOARDS
September 21, 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, September 21, 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 and Councilmembers Chris Ceretto, Tommy Holton, Michael Sanchez, and Bruce Fitzgerald. Councilmember Shannon Rhoda participated remotely through GoToWebinar.

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

PERSONS TO ADDRESS COUNCIL

There was no one to address the Council.

APPROVAL OF AGENDA

Staff asked the following item be removed from the Action Memorandum: AM 2021-155 Approve Entering Contract Negotiations with Top Ranked Firm for WWTP Lift Station Design and Authorize Negotiation of Agreement; the item for the Proclamation for Homecoming be added to the Consent Agenda and AM 2021-156 Approve Order with Badger Meter for New Water Meters and Endpoints for an Amount not to Exceed \$300,000 From the Utility Fund – Water Line Repairs be added to the end of the Action Memorandum.

It was moved by Chris Ceretto and seconded by Tommy Holton to approve the Agenda as amended. Motion passed unanimously on roll call vote.

REVIEW OF ACCOUNTS PAYABLES

Council reviewed the September 21, 2021, payables; there were no questions or comments from the Mayor or Council.

CONSENT AGENDA

It was moved by Bruce Fitzgerald and seconded by Chris Ceretto to approve the Agenda as presented with the following items: Proclamation Blue Devil Homecoming Week September 13-17, 2021, September 7, 2021, City Council Meeting Minutes, Second Reading Ordinance 2021-1125 AN ORDINANCE OF THE CITY COUNCIL OF FORT LUPTON ACCEPTING THE RICHARD ALLEN AND DEBORAH L. SMITH PUBLIC RIGHT OF WAY DEDICATION FOR COUNTY ROAD 24, Award Contract for Geotechnical Groundwater Study of Groundwater

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at 305 Wagonwheel to Cesare, Inc. for an Amount not to Exceed \$6,500.00 from Engineering General Fund (AM 2021-149), and Approve Payment to the 2022 Colorado Big Thompson (CBT) Assessment from the Utility Fund for an Amount Not to Exceed \$153,961 (AM 2021-150). Motion passed unanimously on roll call vote.

PUBLIC HEARING

AM 2021-152 Seeking Determination of a Tavern License Renewal for Silvermoon, LLC DBA Silvermoon Bar and Cafe Located at 334 Main Street

The City Attorney, Andy Ausmus, stated the City Council is now acting as the Liquor Licensing Authority for this hearing.

Mayor Stieber opened the public hearing at 7:03 p.m. The City Clerk, Mari Peña, stated that typically the renewals for liquor licenses are processed administratively. The Municipal Code provides for the criteria in approving the renewal license. The item that couldn't be met was "the applicant's license is in good standing with the City and the State, and no violation of law has occurred during the previous year". The following email and letter are on file:

- an email to the State Liquor Enforcement Division from Officer Whyard with the Fort Lupton Police Department referencing various disturbances;
- a letter from the State of Colorado Liquor Enforcement Division, after an inspection was conducted, indicating that snacks weren't available, books and records were not available for inspection, and the local liquor license was not posted.

The City Clerk stated that all notification requirements were met including posting of a public notice at the building and notice to the owners.

The City Attorney referenced the email from the police department and the letter from the State of Colorado Liquor Enforcement Division. Mayor Stieber asked if the Authority may withhold the license for 30 days. Mr. Ausmus stated that there is no impact on the license at this point.

Mr. Ausmus stated that the Authority, has the following options: Renew the license, ask for show of cause hearing, conditionally renew the license based on the email and letter, table the item to a date certain, or deny the license.

Jason Cardenas, owner of the Silvermoon, stated that everything that was mentioned in the email from the officer is misled information. The gun wasn't pointed at patrons, it was in the vehicle of the gunman and the one gentleman wasn't hit with a bat. There was a female that got a DUI however she wasn't working, and wasn't at the Silvermoon because that evening was when Jason's wife passed away and the female didn't want to be at the Silvermoon. The food concern has been resolved on an inspection from the City.

Councilmember Shannon Rhoda is concerned about the difference in what was documented and what the owner was stating. How can the Authority find the facts?

Mr. Ausmus stated that the matter can be set for a show cause hearing. The standard for renewal is

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that the applicant is of good moral character.

Mayor Stieber asked legal counsel if the matter could be set for two (2) weeks to allow for the Officer to be present. Councilmember Chris Ceretto asked if the business can continue operations while under review. Mr. Ausmus stated yes to both questions.

Mr. Cardenas stated that he wouldn't be able to provide any video since his cameras only allow for 48 hours recording. He did state that he has been compliant with the police department and has provided video footage of any incidents in the area to the police department.

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

Joe Benavidez, the cook at Silvermoon, indicated that the business has been through a rough time. He has been taking care of the bar and ensures that no one is over served. He continuously talks to the bartenders and is willing to assist Jason with operations.

There being no further public comment, Mayor Stieber closed the public hearing at 7:15 p.m. No further discussion occurred among the Council.

It was moved by Bruce Fitzgerald and seconded by Michael Sanchez requesting a show cause hearing to October 5, 2021 to pursue the matter. Motion passed with 5 'yes' votes and 1 'abstain' by Tommy Holton.

AM 2021-151 Approve a Resolution Accepting the Been Minor Subdivision to Create Four Separate Lots on a Property Located in the Northeast Quarter of Section 16

Chris Ceretto recused himself from the hearing and removed himself from the Chambers.

Mayor Stieber opened the public hearing at 7:17 p.m. The City Planner, Alyssa Knutson, stated the previous presentation from July 20, 2021, public hearing is still on record, any additional public comments received after the public hearing are on record and in the packet to the Council. Notifications were resent to meet the requirements of statutes and code for this hearing date.

Mayor Stieber asked legal counsel if the previous comments are part of the record, in which case Council need not take testimony unless someone has changed their mind. Mr. Ausmus indicated that is correct, on a reconsideration the entire prior record would be included. If anyone would like to add or change anything, it is allowed.

Councilmember Tommy Holton indicated that this hearing is only for the subdivision and not the RV Park. Mr. Ausmus stated that is correct.

Chadwin Cox, representative for the applicant, stated that the RV Special Use has been pulled from the application and any discussion would be inappropriate for the Council to hear. The minor subdivision is consistent with the Comprehensive Plan. The water on the properties should be on state permitted well, which has been obtained by Ms. Been. The permit was set to expire but has been extended.

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Mayor Stieber asked the attorney for the opposition if she wished to speak.

Erin Pierce, Attorney with Lyons Gaddis, indicated that there are some speakers that would like to comment on the project as a group there is still in opposition as to whether the project is compliant with the City's Comprehensive Plan related to the issue of 'leap frogging' over agricultural land. This is stressing infrastructure to develop a piece of property that is so far away from the City, where the schools are and where the infrastructure is. There is no justification to develop out of the core of the City. The Comprehensive Plan identifies areas for residential growth and the property is beyond the boundaries of the growth area. These are miles away from the subdivision and not a location in the Comprehensive Plan defined as an area that should be pursuing additional residential growth at this time.

The Planning Director, Todd Hodges, stated that "leap frogging" is not an issue, and he disagrees with Ms. Pierce's assessment of the Comprehensive Plan, as it is agricultural and rural residential. The infrastructure is to be served by septic and well, the State and the County would permit just like anyone else in the County. In his opinion, it does meet the Comprehensive Plan specifically. Ms. Pierce is interpreting the residential growth as rural versus urban. Urban density is quite different and is clearly marked. Mr. Hodges would argue with Ms. Pierce's interpretation of the Code. The Special Use Permit has been withdrawn for the RV Park.

Stephanie Vest, resident of the area stated objections to the subdivision. She stated various extensive violations with the County and provided documentation to the Council. Ms. Vest stated the following concerns: a fire at the house, illegal conversion of the property into several apartment without building approval, and an illegal agricultural building occupied as a duplex. Ms. Vest stated that Ms. Been is a real estate broker who wants to maximize her property. The subdivision fails to meet other municipal code requirements. If the subdivision is permitted, the City will set a low threshold and ignore its municipal code and Comprehensive Plan.

Danielle Rainey, who resides adjacent to the development stated that she agreed with Mr. Vest. Ms. Rainey indicated that Ms. Been has a history of poor regard for responsibility of the law and safety of occupants. She has applied to the county on various projects all against her neighbor's wishes. The RV Campground Park was denied by the County due to property being in violation. Weld County has denied her development due to poor planning and previous violations. Ms. Rainey urged the Council to vote against the subdivision and irresponsible development of this community.

Frank Buschman, a resident of the area, stated concerns over the code enforcement having to travel three to five miles outside of the City to enforce more codes when homes are built.

Ms. Been stated that she rented the house and someone caught the kitchen on fire. The concern of the house being turned into an apartment arose when a tenant was unhappy with her. It was investigated however; there was no violation from the county. There was a letter regarding opening of doors however, nothing else was noted.

Vincent Forcineto, land use counsel from Otten Johnson, stated that what happened in the house

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is irrelevant. The discussion here is for the subdividing of lots on the property.

There being no further comments or questions, Mayor Stieber closed the public hearing at 7:36 p.m.

The Planning Director stated that if approved, prior to any construction, any permits would come before the building department and any land uses would come before the Council.

It was moved by Tommy Holton and seconded by Bruce Fitzgerald to approve Resolution 2021R052 A RESOLUTION APPROVING THE BEEN MINOR SUBDIVISION TO CREATE FOUR SEPARATE LOTS. Motion passed with 4 'yes' votes and 1 'no' vote from Mayor Stieber with Councilmember Chris Ceretto abstaining.

Mayor Stieber called for a recess at 7:40 p.m. The meeting reconvened at 7:45 p.m.

ACTION MEMORANDUM

AM 2021-153 Accepting the City of Fort Lupton's Audit Report of Financial Statements for the Year Ending December 31, 2020

The audit and management report have been presented as complete. Paul Needymiller, Principal with Clifton Larson Allen LLP, provided a presentation to the Council.

The 2020 Comprehensive Annual Financial Statements are available on the City's website at www.FortLuptonCO.gov under Government Services, Finance Department, and Budget & Resources.

It was moved by to accept the City of Fort Lupton Audit Report of Financial Statements for the Year Ending December 31, 2020. Motion passed unanimously on voice vote.

AM 2021-154 Approving a Resolution Authorizing the Temporary Suspension of Enforcement of Sections 16-144 and 16-146 of the Fort Lupton Municipal Code for 90 Days

Sections 16-144 and 16-146 of the Fort Lupton Municipal Code (the "Code") sets forth regulations concerning temporary signs, special event signs, banners and pennants to provide for the public health, safety and welfare of the City's residents. The City Council desires to review for potential revision Sections 16-144 and 16-146 of the Code regarding temporary signs, special event signs, banners and pennants regulation in light of the recent impacts of the Covid-19 pandemic on the businesses in Fort Lupton and as it impacts the City's residents. The City Council finds and declares that certain circumstances are present that reasonably require suspension of enforcement activities related to Sections 16-144 and 16-146 of the Code, and that it is in the interest of the public health, safety and welfare to temporarily suspend enforcement of Sections 16-144 and 16-146 of the Code pending further investigation of the possible revisions to the Code.

It was moved by Tommy Holton and seconded by Chris Ceretto to approve Resolution

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2021R053 A RESOLUTION AUTHORIZING THE TEMPORARY SUSPENSION OF ENFORCEMENT OF SECTIONS 16-144 AND 16-146 OF THE MUNICIPAL CODE OF ORDINANCES, CITY OF FORT LUPTON, REGARDING TEMPORARY SIGNS AND SPECIAL EVENT SIGNS, BANNERS AND PENNANTS. Motion passed unanimously on roll call vote.

AM 2021-156 Approve Order with Badger Meter for New Water Meters and Endpoints for an Amount not to Exceed \$300,000 From the Utility Fund – Water Line Repairs.

The City currently charges new construction a meter fee to cover the costs of meter, endpoint and accessories associated with installation of new water service

Meters and endpoint delivery are currently being hindered by the microchip shortage. In order to receive shipments, Badger requires a purchase order that the order is being applied to. They are anticipating short order delivery with only 50% delivered that are on order.

The Badger meters and beacon reading system is the chosen AMI system for meter reading.

The City is currently behind with endpoint installation by 50 homes. These meters must be read manually for billing. There is also a backlog of meter installations with additional developments about to require meter installations (Cottonwood Greens, Willow Bend and Mountain Sky).

It was moved by Tommy Holton and seconded by Michael Sanchez to approve the order with Badger Meter for new water meters and endpoints for an amount not to exceed \$300,000 from the Utility Fund-Water Line Repairs. Motion passed unanimously on roll call vote.

STAFF

The Finance Director indicated that the budget will be presented at the October 5, 2021 meeting and the budget hearing is scheduled for Saturday, October 16, 2021.

MAYOR/COUNCIL REPORTS

Mayor Stieber stated that Trapper Days was a big success and thanked all personnel that assisted in the vent.

FUTURE CITY EVENTS

September 23, 2021	Senior & Disabled Citizen Fall Clean Up
September 28, 2021	Town Hall Meeting, 130 S. McKinley Ave. 6:30 p.m.
October 5, 2021	City Council Meeting, 130 S. McKinley Ave. 7:00 p.m.
October 12, 2021	Town Hall Meeting, 130 S. McKinley Ave. 6:30 p.m.

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October 18, 2021

Apple Days

October 19, 2021

City Council Meeting, 130 S. McKinley Ave. 7:00 p.m.

EXECUTIVE SESSION

It was moved by Tommy Holton and seconded by Michael Sanchez to move into 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)." golf course and "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)." Update on settlement negotiations. Motion passed unanimously on roll call vote.

The following entered into the Executive Session at 8:08 p.m. Mayor Stieber, Councilmembers Bruce Fitzgerald, Chris Ceretto, Tommy Holton, and Michael Sanchez. Councilmember Shannon Rhoda participated by phone. Also, City Administrator Chris Cross, City Attorney, Andy Ausmus, and Finance Director, Leann Perino. At 8:25 p.m., it was visually noted that Mayor Stieber and Finance Director Leann Perino exited the Council Chambers. Mayor Stieber and Finance Director, Leann Perino, didn't participate in the second Executive Session.

The executive session ended at 8:54 p.m.

ADJOURNMENT

The meeting adjourned at 8:54 p.m.

Submitted by,



Maricela Peña, City Clerk

Approved by City Council



Zo Stieber, Mayor

