B. November 17, 2020 – Regular Session Minutes



MINUTES

City Council Regular Session

November 17, 2020
Via Remote Meeting Connection

1. MEETING CALLED TO ORDER

The November 17, 2020, Regular Session of the Longmont City Council was called to order at 7:00 p.m. by Mayor Brian Bagley via remote meeting connection.

- **A.** Meetings are being held remotely due to the ongoing novel coronavirus pandemic.
- B. Watch The Meeting Livestream by clicking 'PLAY' on the video link within the interactive agenda window. Interactive agendas are on the City's Agenda Management Portal at https://www.longmontcolorado.gov/online-services/agendas-and-minutes/agenda-management-portal or viewers may go to https://bit.Ly/Longmontyoutubelive or https://LongmontPublicMedia.Org/Watch/ to view the video without the agenda and associated materials.

2. ROLL CALL - PLEDGE OF ALLEGIANCE

Dawn Quintana, City Clerk, called the roll. Those present were Mayor Bagley and Council Members Polly Christensen, Susie Hidalgo-Fahring, Marcia Martin, Joan Peck, Aren Rodriguez, and Tim Waters.

Mayor Bagley led the assembly in reciting the Pledge of Allegiance.

3. CHAIR REMINDER TO THE PUBLIC

Mayor Bagley reviewed the procedures for Public Invited to be Heard and Public Hearings.

A. Anyone wishing to provide Public Comment must watch the Livestream of the meeting and call-in <u>only</u> when the Mayor opens the meeting for public comment. Callers are not able to access the meeting at any other time.

INSTRUCTIONS FOR CALLING IN TO PROVIDE PUBLIC COMMENT:

The toll-free call-in number is: 888 788 0099.

Watch the livestream (instructions above) and write down the Meeting ID when it is displayed at the beginning of the meeting.

WAIT for the Mayor to open public comment and direct callers to call-in.

When the Mayor says to call in, dial the toll-free number, enter the Meeting ID, and, when asked for your Participant ID, press #.

Mute the livestream and listen for instructions on the phone.

Callers will hear confirmation they have entered the meeting, will be told how many others are already participating in the meeting (staff and council included), and will be placed in a virtual waiting room until admitted into the meeting.

Once admitted to the meeting, callers will be called upon by the last three (3) digits of their phone number and allowed to unmute to provide their comments.

Comments are limited to three minutes per person and each speaker will be asked to state their name and address for the record prior to proceeding with their comments.

Once done speaking, callers should hang up.

4. APPROVAL OF MINUTES

There were no minutes presented for approval.

5. AGENDA REVISIONS, AND SUBMISSION OF DOCUMENTS, AND MOTIONS TO DIRECT THE CITY MANAGER TO ADD AGENDA ITEMS TO FUTURE AGENDAS

A. Substitute Ordinance O-2020-62 Added to Item 12(A)(1) – view the ordinance by clicking on Item 12(A)(1) below.

Mayor Bagley noted the substituted ordinance that was provided by staff for Ordinance O-2020-62.

6. CITY MANAGER'S REPORT

A. Update on COVID-19

Harold Dominguez, City Manager, provided an update on the change in the levels of restrictions from the State of Colorado, explaining that Boulder County will move to 'red' level on November 20, 2020. He then reviewed the current positivity numbers:

- Two-week cumulative incidence rate is 758.9 per 100,000
- Two-week positivity rate is 8.3%
- Seeing decreasing trend since 11/12

- 12% of cases in past week have been CU-affiliated Boulder County residents
- 27 deaths since 1st of October
- 5 day rolling average at 220.6 cases per day which is higher than any other time

Harold explained that the City and the Housing Authority will need to make adjustments to some operations based on moving to level red.

Council inquired about Longmont-specific data which Harold was not provided by the County, and about the wastewater testing to which Harold responded that staff wants to validate the data with an epidemiologist before utilizing those results as a leading indicator, but it is being worked on.

Dan Eamon, Assistant Public Safety Chief, provided an update on free testing sites and said that the City may need to help pick up the burden of targeted testing sites because the County is stretched so thin, and Harold chimed in that he is looking at shifting CARES funding to cover some of this expense. Dan also updated Council that 29 people were hospitalized with COVID in Longmont and that hospitals are concerned with staffing because of fatigue and quarantining taking place as needed. Lastly, Dan explained that there is not a lot of information about a vaccine yet but there is an enormous amount of planning happening for when a vaccine is released.

Council asked about contact tracing and Dan responded that it really is not happening due to limited staff resources at the County and Harold said he has offered to help with this if staff can be re-assigned as needed but is waiting to see if that pans out.

7. SPECIAL REPORTS AND PRESENTATIONS

A. 2020 Colorado APWA Parks and Trails Award - Dickens Farm Nature Area

Steve Ransweiler, Senior Project Manager, introduced Pete Adler, Colorado Chapter Delegate to the American Public Works Association (APWA), who provided an award to the City for the Dickens Farm Park nature area. He noted this is the 35th year of the award program and congratulated the City for the Project of the Year award.

8. FIRST CALL - PUBLIC INVITED TO BE HEARD

Matt Eldred, 318 Carter Lane, Executive Director for Tiny Tim Learning Center, thanked City Council for the generous support in 2020 for expanding childcare services and for providing protective equipment and supplies (PPE) to ensure early childhood centers could stay open safely.

Maria Villagran, a state licensed childcare provider, also called and thanked for the PPE protection given to help her stay safe and continue to provide services to families.

Elizabeth Fannon, 1445 Serenity Circle, Director of the Aspen Center for Child Development, echoed gratitude for PPE and support during the pandemic which brought relief to the school, and comfort and a sense of security to parents and teachers.

Scott Cook, Longmont Chamber of Commerce, thanked Council for the funds provided for PPE for early childhood providers.

Michael Bellmont, 841 Tenacity Drive, spoke about two recent letters to the editor by Council Members speaking out against Longmont footing the bill to uphold the fracking ban in the courts alongside Our Health, Our Future, Our Longmont and Colorado Rising, and he stated that the agreement Longmont has with oil and gas operators that is in place is not a strong enough assurance for the future and suggested that the cost per resident for the legal bill is worth the protections the ban would offer.

Doe Kelly, Barberry Drive, spoke about COVID and a report linking Vitamin D deficiency and increased risk of acquiring the virus, noted that most people do not die of COVID. She also congratulated staff on the award from APWA for Dickens Farm Park.

Gayle Allen, Longmont resident, spoke about the rising COVID numbers noting there is confusion about when people should wear masks and she asked Council to remind residents to carry a mask when outside and put it on when people are around.

Laurel Ritchie, local realtor, spoke about short term rentals and property rights and said use of property should be decided by the market and the short term rental rules should not be changed because of a few problem houses.

Beth Anderson, 421 Gay Street, called about short term rentals and stated she owns one two blocks from her home and asked Council not to put people out of business. She noted her support for the current ordinance and for shoring up the code by limiting the number of permits and providing the power to revoke permits.

Lynette McClain, Sandpoint Drive, Longmont Citizens for Climate Watch, said she was disappointed by letters to editor by Council Members supporting fracking in the City of Longmont and said the letters were riddled with misguided information.

Tom Anderson, 421 Gay Street, also called about Short Term Rentals, echoing the comments made by his wife and shared that most guests are visiting family that lives here. He stated that the ordinance seems to be working well and that these rentals are a safe haven during this pandemic.

Susan Green, Western Sky Circle, thanked Mayor Bagley and Council Members for responding to her emails regarding the Costco development. She shared her disappointment to have this change from what her family understood was planned for the area but noted her support for

the project in terms of the economics but asked that additional landscaping and barriers be considered to protect the neighborhood.

9. CONSENT AGENDA AND INTRODUCTION AND READING BY TITLE OF FIRST READING ORDINANCES

Dawn Quintana, City Clerk, read the titles of the ordinances into the record and reviewed all of the items on the Consent Agenda.

- **A.** Fraternal Order of Police And International Association of Fire Fighters Collective Bargaining Contracts
- 1. R-2020-122, A Resolution Of The Longmont City Council Approving A Cooperative Agreement Between The City And The Longmont Fraternal Order Of Police Lodge 6 For January 1, 2021 Through December 31, 2021

MOTION

Tim Waters moved, seconded by Brian Bagley,

to approve A Resolution Of The Longmont City Council Approving A Cooperative Agreement Between The City And The Longmont Fraternal Order Of Police Lodge 6 For January 1, 2021 Through December 31, 2021

Approved: Brian Bagley, Polly Christensen, Susie Hidalgo-Fahring, Marcia Martin,

Joan Peck, Aren Rodriguez, Tim Waters

Dissented: None **Abstained:** None

Carried: 7 – 0

2. R-2020-123, A Resolution Of The Longmont City Council Approving A Cooperative Agreement Between The City And The Longmont Professional Firefighters Association International Association Of Firefighters Local 1806 For January 1, 2021 Through December 31, 2021

MOTION

Tim Waters moved, seconded by Brian Bagley,

to approve A Resolution Of The Longmont City Council Approving A Cooperative Agreement Between The City And The Longmont Professional Firefighters Association International Association Of Firefighters Local 1806 For January 1, 2021 Through December 31, 2021

Approved: Brian Bagley, Polly Christensen, Susie Hidalgo-Fahring, Marcia Martin,

Joan Peck, Aren Rodriguez, Tim Waters

Dissented: None **Abstained:** None

Carried: 7 – 0

B. R-2020-124, A Resolution Of The Longmont City Council Approving The Intergovernmental Agreement Between The City And Adams State University For A Memorandum Of Affiliation Permitting Educational Experiences In Counseling

Council Member Christensen asked if the internships were paid and Teresa Tate, Deputy City Attorney, replied that they are not because the practicum is part of the plan of study.

MOTION

Polly Christensen moved, seconded by Brian Bagley, to approve A Resolution Of The Longmont City Council Approving The Intergovernmental Agreement Between The City And Adams State University For A Memorandum Of Affiliation Permitting Educational Experiences In Counseling

Approved: Brian Bagley, Polly Christensen, Susie Hidalgo-Fahring, Marcia Martin,

Joan Peck, Aren Rodriguez, Tim Waters

Dissented: None **Abstained:** None

Carried: 7 - 0

C. R-2020-125, A Resolution Of The Longmont City Council Approving The Intergovernmental Agreement Between The City Of Longmont And The County Of Boulder For The Acquisition And Management Of The McLachlan Property

MOTION

Brian Bagley moved, seconded by Joan Peck, to approve the consent agenda except items A, 1, 2, B, E

Approved: Brian Bagley, Polly Christensen, Susie Hidalgo-Fahring, Marcia Martin,

Joan Peck, Aren Rodriguez, Tim Waters

Dissented: None **Abstained:** None

Carried: 7 - 0

D. R-2020-126, A Resolution Of The Council Of The City Of Longmont, Colorado, Finding That The Petition For Annexation Of A Parcel Of Land Located In Boulder County, State Of Colorado, Known As The Riverset Annexation (Generally Located North Of Boston Avenue And East Of Sunset Street) Substantially Complies With The Colorado Revised Statutes Section 31-12-107(1)

MOTION

Brian Bagley moved, seconded by Joan Peck, to approve the consent agenda except items A, 1, 2, B, E

Approved: Brian Bagley, Polly Christensen, Susie Hidalgo-Fahring, Marcia Martin,

Joan Peck, Aren Rodriguez, Tim Waters

Dissented: None **Abstained:** None

Carried: 7 – 0

E. R-2020-127, A Resolution Of The Longmont City Council Supporting Public Health Agencies In Slowing The Spread Of COVID-19

Council Member Christensen noted that hand washing was missing from the resolution.

Mayor Bagley commented on the secondary consequences of the pandemic to businesses and the financial health of communities and expressed his support for the Governor's actions.

MOTION

Polly Christensen moved, seconded by Brian Bagley, to approve A Resolution Of The Longmont City Council Supporting Public Health Agencies In Slowing The Spread Of COVID-19

Approved: Brian Bagley, Polly Christensen, Susie Hidalgo-Fahring, Marcia Martin,

Joan Peck, Aren Rodriguez, Tim Waters

Dissented: None **Abstained:** None

Carried: 7 – 0

10. ORDINANCES ON SECOND READING AND PUBLIC HEARINGS ON ANY MATTER

A. Public Hearing to consider action on Amendment #20-02 to the 2020 CDBG Action Plan

Mayor Bagley introduced the item. A presentation explaining the amendment and reasons for the amendment was included in the packet and available to Council and to the public and there were no questions from Council on this item.

Mayor Bagley opened a public hearing on this item. There being no one present to address Council on this issue, the public hearing was closed.

MOTION

Brian Bagley moved, seconded by Marcia Martin, to approve Amendment #20-02 to the 2020 CDBG Action Plan

Approved: Brian Bagley, Polly Christensen, Susie Hidalgo-Fahring, Marcia Martin,

Joan Peck, Aren Rodriguez, Tim Waters

Dissented: None **Abstained:** None

Carried: 7 – 0

11. ITEMS REMOVED FROM CONSENT AGENDA

The discussion and action on items removed from the Consent Agenda appears under the individual item above.

12. GENERAL BUSINESS

A. Costco Economic Development Incentive and Associated Agreement and Purchase of 9 Acres for the Development of Affordable Housing

Harold Dominguez, City Manager, introduced the project and presentation. He reviewed how the opportunity developed, shared why it is important for the community, and explained that the developer approached the City about locating a Costco in Longmont but the original location had infrastructure and financial challenges which required larger incentives that could not likely be met. Costco ultimately chooses their sites, he explained, and the search for alternatives resulted in the location proposed which is east of Harvest Junction South and south of Highway 119.

Jessica Erickson, Executive Director of the Longmont Economic Development Partnership, reviewed the project from an economic development perspective, explaining that they look at the significant fiscal benefits and direct dollars that will go into City coffers. She provided an estimate of 260 jobs that will be created with high average wages and shared how those jobs have economic benefits to the community.

Jenifer Murillo, Director of Real Estate for Costco, described the Costco story and explained how the company focuses on its workers through compensation and retention strategies at all 800 stores globally. She indicated that the company also partners with local non-profits as a key business strategy.

Dale Rademacher, Deputy City Manager, stepped Council through the highlights and key elements of the agreement and confirmed that the CEO of Costco personally came out to see the site before deciding upon the Longmont location. He described the agreement requirements including that the owner will deliver property at no

cost to Costco and the location must be 'pad ready' with horizontal infrastructure built. He also reviewed the framework for the public private partnership agreement pointing out key elements of it including: the City acquires 17 acres for Costco and 9 acres for future affordable housing; the City provides satisfaction of raw water deficits on the property; the entities share in the design and construction of public improvements; and 'clawback' provisions to protect the City's upfront investment among the most prominent points of the agreement. He further explained that Costco will contribute \$6.16 million to private site improvements and that the Golden family would retain four pad sites on the east side of the location. The City's costs for the project include: the actual cost to acquire 17 acres and 9 acres for affordable housing; satisfaction of 22.66 acre feet of raw water deficits on the owner remainder property and of 26 acres for Costco and housing sites; funding of public improvements on a pro-rata basis tied to acres; and provide up to \$3 million to cover private site improvements that exceed Costco's contribution.

Jim Golden, Chief Financial Officer, reviewed the total maximum project costs: \$23,618,234 to purchase and prepare land – City's share is up to \$12,990,711; developer costs are up to \$3,664,304; and Costco's share is \$6,963,219.

Jim explained the City's funding sources for the project, including how future sales tax would contribute to repaying the costs, as they are laid out in the presentation and attachment to the Council Communication.

Jim further explained that the ordinances before Council would create the Harvest Junction East Special Revenue Fund, described how the loan from the Fleet Fund would be repaid, that half of the 2% of the non-earmarked city sales tax would go into this special revenue fund to repay the loan to Fleet Fund, and the other 1% go would to the General Fund and the Public Improvement Fund. He then reviewed sales tax estimates indicating that, after accounting for some cannibalization from existing retailers, staff estimates that Costco would generate about \$3M in sales tax in the first year and over \$98.6M over 20 years in gross sales tax. Lastly, Jim shared that these loans from the Fleet Fund are greater than ever before and new financial policies will be brought forth in 2021 to protect the fund from overuse.

Finally, Dale explained that closing on the property is expected to take place in mid-2021. Following Development Review and approval of land entitlements, the City and Costco funds would be placed in escrow, and Costco would then direct commencement of public and private site improvements, and, in late 2022, begin construction of the warehouse and fueling island. The warehouse would open prior to July 2024.

Council clarified that the affordable housing would abut the existing residential subdivision and that the Costco warehouse building would be east of the existing multi-family Watermark apartment complex and that the project would still have to

run the normal course of planning and development review and approvals, with opportunities for public input.

Staff thanked Reggie Golden of the Golden Family and Jessica Murrillo of Costco for their partnership in making this project come together.

1. O-2020-62, A Bill For An Ordinance Approving A Public/Private Partnership Agreement Among Diamond G Concrete Company, Costco Wholesale Corporation, And The City Of Longmont In Furtherance Of Development Of A Costco Membership Warehouse Facility, Affordable Housing And Additional Commercial/Retail Uses

MOTION

Tim Waters moved, seconded by Aren Rodriguez, to pass and adopt A Bill For An Ordinance Approving A Public/Private Partnership Agreement Among Diamond G Concrete Company, Costco Wholesale Corporation, And The City Of Longmont In Furtherance Of Development Of A Costco Membership Warehouse Facility, Affordable Housing And Additional Commercial/Retail Uses (Public Hearing and Second Reading Scheduled for December 1, 2020)

Approved: Brian Bagley, Polly Christensen, Susie Hidalgo-Fahring, Marcia Martin,

Joan Peck, Aren Rodriguez, Tim Waters

Dissented: None **Abstained:** None

Carried: 7 – 0

2. O-2020-63, A Bill For An Ordinance Amending Title 4 Of The Longmont Municipal Code On Revenue And Finance By Creating The Harvest Junction East Special Revenue Fund

MOTION

Tim Waters moved, seconded by Aren Rodriguez, to pass and adopt A Bill For An Ordinance Amending Title 4 Of The Longmont Municipal Code On Revenue And Finance By Creating The Harvest Junction East Special Revenue Fund (Public Hearing and Second Reading Scheduled for December 1, 2020)

Approved: Brian Bagley, Polly Christensen, Susie Hidalgo-Fahring, Marcia Martin,

Joan Peck, Aren Rodriguez, Tim Waters

Dissented: None **Abstained:** None

Carried: 7 – 0

3. O-2020-64, A Bill For An Ordinance Making Additional Appropriations For Expenses And Liabilities Of The City Of Longmont For The Fiscal Year Beginning January 1, 2020

MOTION

Tim Waters moved, seconded by Brian Bagley,

to pass and adopt A Bill For An Ordinance Making Additional Appropriations For Expenses And Liabilities Of The City Of Longmont For The Fiscal Year Beginning January 1, 2020 (Public Hearing and Second Reading Scheduled for December 1, 2020)

Approved: Brian Bagley, Polly Christensen, Susie Hidalgo-Fahring, Marcia Martin,

Joan Peck, Aren Rodriguez, Tim Waters

Dissented: None **Abstained:** None

Carried: 7 – 0

B. Short Term Rentals

Joni Marsh, Assistant City Manager, provided a presentation and reviewed the current requirements for short term rentals (STRs), the direction given to staff by Council at the July 14, 2020 meeting, and the issues staff identified with STRs and noted that the property that had generated many complaints from the public is no longer renting on a short-term basis. Joni then explained that staff had three recommendations:

- Require applicants to submit additional documentation verifying they are the owner and occupant of a STR located in the City. Staff believes this provides a higher burden of proof.
- 2. Add specific language directed towards licensing renewals and revocation so that when a permit comes up for renewal there is criteria and a process to deny or revoke it based on non-compliance with the code.
- 3. Code currently allows a STR for an owner-occupied when the property is held in name of LLC or Trust and staff recommends leaving it as is.

Council discussed these recommendations and provided their individual perspectives, noting generally that any notice of violation should also be sent to the property owner, and further discussed whether or not owners should be prohibited from owning a second property as an investment property or from holding title as an LLC or Trust in relation to obtaining a short-term rental permit.

MOTION

Marcia Martin moved, seconded by Tim Waters,

to direct staff to bring back two separate ordinances – one regarding enforcement and the other regarding what ownership is allowed in order to debate the topics separately

Approved: Brian Bagley, Polly Christensen, Susie Hidalgo-Fahring, Marcia Martin,

Aren Rodriguez, Tim Waters

Dissented: Joan Peck **Abstained:** None

Carried: 6 – 1

Joni asked for clarification regarding whether staff should remove investment properties or leave that in for now.

Mayor Bagley moved to permit short term rentals for residents who own a second home, and to allow them to use it as a short term rental.

Mayor Pro Tem Rodriguez called a point of order noting that Mayor Bagley was not on the prevailing side of that vote and thus not able to make that motion.

MOTION

Tim Waters moved, seconded by Brian Bagley, to direct staff to bring back an ordinance that allows homeowners who own a second property to use as that as a short term rental

Council briefly discussed how this would work and Joni clarified that staff can look up registered agents on the Department of Regulatory Agencies' website in addition to requesting additional documentation from the property owner.

Approved: Brian Bagley, Susie Hidalgo-Fahring, Marcia Martin, Aren Rodriguez, Tim

Waters

Dissented: Polly Christensen, Joan Peck

Abstained: None

Carried: 5 - 2

C. Update on the 2019 Greenhouse Gas Inventory and Climate Action Task Force Recommendations

MOTION

Marcia Martin moved, seconded by Polly Christensen, to direct staff to postpone Items 12 C & D to a future meeting.

Approved: Brian Bagley, Polly Christensen, Susie Hidalgo-Fahring, Marcia Martin,

Joan Peck, Aren Rodriguez, Tim Waters

Dissented: None

Abstained: None

Carried: 7 – 0

D. Solar Feasibility Study

Refer to Item 12C for information about this item.

13. FINAL CALL - PUBLIC INVITED TO BE HEARD

Brian Johnston, 926 Coffman Street, called about Costco and commended Jim Golden for a great presentation and explanation of the benefits of the project but said he would have liked to see a breakdown of jobs added by year as well as information on some of the possible drawbacks such as increased delivery truck traffic.

14. MAYOR AND COUNCIL COMMENTS

Council Member Peck updated Council on RTD noting the board voted to retain FISA and added to it, and that Eric Davidson is the new Director. She also stated that the Front Range Rail coalition will present to Council in December and explained that they need a conduit to Union station and will be seeking a federal grant. She thanked Mayor Bagley for being a loud voice at the mayors and commissioners coalition meetings.

Council Member Martin defended her editorial letter on fracking and explained that she is against paying for stuff that other people get benefit of in their taxes, that she is not for fracking, but is for protecting the people of Longmont from it and opined that the agreement with Cub Creek is protecting Longmont from having drilling inside City limits.

When Council Member Martin expressed her opinion about the attorney leading the fracking ban effort, Council Member Peck called for a point of order and Mayor Bagley overruled it.

Council Member Martin concluded her statement saying that she does not want Longmont to have to pay so that other cities can have a fracking ban.

Mayor Pro Tem Rodriguez commented that he had participated in a panel for the Leadership Fellows organized by the Boulder County Community Foundation with Representatives Feinberg and Jaquez-Lewis, and Senator Matt Jones and stated he did his best to relate positions only voted on by Council and successfully avoided disparaging any Council Members or staff members.

Council Member Waters recognized the importance of public invited to be heard and clarified that he did write a letter to the editor and clarified his position noting he is opposed to fracking inside City limits, and stated he voted for the 2012 fracking ban and supports the mission of Colorado Rising. He explained that he is proud of the contract with Cub Creek to protect

Longmont, and is opposed, as a resident, to covering the costs for an appeal that keeps us as defendants and further depletes our resources in a time of austerity.

Council Member Hidalgo-Fahring made a plea for everyone to follow the restrictions in place to help contain the COVID pandemic and expressed her frustration with decisions being pushed down to cities and individuals instead of the pandemic being managed at a broader level.

15. CITY MANAGER REMARKS

The City Manager had no additional items to bring before City Council.

16. CITY ATTORNEY REMARKS

The City Attorney had no additional items to bring before City Council.

17. ADJOURN

There being no further business to come before the City Council, the meeting was adjourned at 11:08 p.m.

Current Balance in General Fund Council Contingency: \$67,052

MOTION

Aren Rodriguez moved, seconded by Joan Peck, to adjourn the meeting.

Approved: Brian Bagley, Polly Christensen, Susie Hidalgo-Fahring, Marcia Martin, Joan Peck,

Aren Rodriguez, Tim Waters

Dissented: None **Abstained:** None

Carried: 7 – 0

	CITY OF LONGMONT, COLORADO
ATTEST:	Mayor
City Clerk	