

September 12, 2017

COUNCIL OF THE CITY OF FORT COLLINS, COLORADO

Council-Manager Form of Government

Adjourned Meeting – 6:00 PM

● ROLL CALL

PRESENT: Martinez, Stephens, Overbeck, Troxell, Cunniff,

ABSENT: Horak, Summers

Staff present: Atteberry, Daggett, Jensen

1. **Second Reading of Ordinance No. 115, 2017, Amending Section 2-493 of the Code of the City of Fort Collins Regarding Duties of Municipal Judges. (Adopted on Second Reading)**

*This Ordinance, unanimously adopted on First Reading on August 15, 2017, sets out the duties of the Municipal Judges as referenced in Article VII, Section 1, of the City Charter.*

Eric Sutherland stated the situation evolving off the first case filed in Municipal Court warrants a more comprehensive review of Municipal Court procedures than what is before Council in this item. He does not believe Council has the ability to appoint temporary judges by an intergovernmental agreement. He suggested the formation of a citizen review board to examine the policies.

Kathryn Dubiel discussed a Colorado Supreme Court decision from 1984 in which the Court rendered a unanimous opinion related to the ability of citizens to petition the Municipal Court. She stated new judges should be vetted and appointed by Council and opposed the IGA provision.

Ann Hunt stated she was part of the first civil case brought before the Municipal Court and discussed the issues with that case. She opposed the IGA provision.

Colleen Hoffman discussed issues related to the Municipal Court and stated it could be a model for other cities if done appropriately. She stated Fort Collins citizens are not on a level playing field with developers.

Councilmember Cunniff asked if a Chief Judge is required. City Attorney Daggett replied in the affirmative and stated the Charter language specifies that Council shall appoint a judge or judges and references Council's role in setting compensation. The proposed Code language establishes the Chief Judge from a practical standpoint.

Councilmember Cunniff asked if anything in the Code language would preclude Council from appointing, by resolution, the people named in the IGA. City Attorney Daggett replied in the negative.

Mayor Troxell asked if the Chief Judge reports to Council. City Attorney Daggett replied all of the judges who are actually appointed under this model would report to Council and the Chief Judge would have some role in supervising the activities of the other judges. Council currently also appoints the Assistant Judge, Teresa Ablao.

Councilmember Martinez asked if all judges would be evaluated, or just the Chief Judge. City Attorney Daggett replied that remains to be seen and will occur at Council's direction.

Councilmember Martinez made a motion, seconded by Councilmember Stephens, to adopt Ordinance No. 155, 2017, on Second Reading.

Councilmember Overbeck supported evaluating other judges.

Mayor Troxell recommended the City Attorney bring forward recommendations related to that process.

Councilmember Cunniff stated he would support the motion and possible evaluation of other judges.

<b>RESULT:</b>	<b>ORDINANCE NO. 155, 2017, ADOPTED ON SECOND READING [UNANIMOUS]</b>
<b>MOVER:</b>	Ray Martinez, District 2
<b>SECONDER:</b>	Kristin Stephens, District 4
<b>AYES:</b>	Martinez, Stephens, Overbeck, Troxell, Cunniff
<b>ABSENT:</b>	Summers, Horak

2. **Resolution 2017-083 Appointing Kathleen M. Lane as Chief Judge of the Fort Collins Municipal Court and Authorizing the Fourteenth Addendum to Judge Lane's Employment Agreement. (Adopted)**

*The purpose of this item is to appoint existing Judge Kathleen M. Lane as Chief Judge and authorize the Fourteenth Addendum to Judge Lane's employment agreement.*

Eric Sutherland discussed the same Colorado Supreme Court case referenced by Ms. Dubiel. He opposed this Resolution based primarily on the fact that it does not appear Judge Lane has respect for the fundamental rights of Fort Collins' citizens.

Kathryn Dubiel asked Council to direct the Chief Judge to view impartially the irregularities involved in the conduct of the first municipal civil case brought before the Municipal Court, should this Resolution be adopted.

Mayor Troxell asked if there were irregularities in the case mentioned. City Attorney Daggett replied it is difficult to say if there were irregularities given the uniqueness of the case. The judges employed by the City were challenged by the plaintiffs as having a conflict of interest; therefore, an alternative substitute judge was arranged under the IGA. She stated she would not characterize anything specifically as an irregularity.

Councilmember Cunniff asked if staff will be providing a series of recommendations based on what has been learned from this case and other cities. City Attorney Daggett replied in the affirmative.

Councilmember Stephens asked if there is any type of guide through the court system for individual citizens. City Attorney Daggett replied the state may have some resources of that type.

Councilmember Stephens suggested the formation of some type of guide should the Municipal Court continue to hear civil cases.

Councilmember Martinez made a motion, seconded by Councilmember Stephens, to adopt Resolution 2017-083.

<b>RESULT:</b>	<b>RESOLUTION 2017-083 ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Ray Martinez, District 2
<b>SECONDER:</b>	Kristin Stephens, District 4
<b>AYES:</b>	Martinez, Stephens, Overbeck, Troxell, Cunniff
<b>ABSENT:</b>	Summers, Horak

3. **Resolution 2017-085 Making Findings of Fact and Conclusions of Law Regarding the Appeal of the Planning and Zoning Board Decision to Approve the Crowne at Old Town North Project Development Plan PDP 170007. (Adopted)**

*The purpose of this item is to make findings of fact and conclusions of law regarding the appeal of the Planning and Zoning Board June 15, 2017, decision to approve the Crowne at Old Town North Project Development Plan. The appeal was heard by City Council on September 5, 2017.*

Eric Sutherland stated he will be filing an appeal of this case in the Municipal Court. He stated Council may not approve a PDP in an appeal hearing and contended Council made a finding based on new evidence.

Councilmember Cunniff made a motion, seconded by Councilmember Overbeck, to adopt Resolution 2017-085 as amended to state Council modified the Board's approval of the PDP.

<b>RESULT:</b>	<b>RESOLUTION 2017-085 ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Ross Cunniff, District 5
<b>SECONDER:</b>	Bob Overbeck, District 1
<b>AYES:</b>	Martinez, Stephens, Overbeck, Troxell, Cunniff
<b>ABSENT:</b>	Summers, Horak

● **OTHER BUSINESS**

Mayor Troxell and Councilmember Martinez supported Councilmember Stephens' request regarding material being prepared for citizens to navigate Municipal Court.

Councilmember Martinez requested an update regarding the Police Training Facility. City Manager Atteberry replied design work is underway.


Councilmember Martinez asked about using tobacco tax funds more directly to help youth. City Manager Atteberry replied Council has the ability to specifically direct those funds to smoking cessation and education and that would best be done during the next budget cycle.

Councilmembers Cunniff and Stephens supported examining options.


Councilmember Overbeck requested information regarding smoking survey results.

● ADJOURNMENT

The meeting adjourned at 6:44 PM.

  
Mayor

ATTEST:

  
City Clerk

