

October 3, 2017

COUNCIL OF THE CITY OF FORT COLLINS, COLORADO

Council-Manager Form of Government

Regular Meeting – 6:00 PM

● **ROLL CALL**

PRESENT: Martinez, Stephens, Summers, Overbeck, Troxell, Horak
ABSENT: Cunniff
Staff Present: Atteberry, Daggett, Coldiron

● **AGENDA REVIEW: CITY MANAGER**

City Manager Atteberry stated there were no changes to the published agenda.

● **CITIZEN PARTICIPATION**

Mary Copco, Fort Collins Symphony, announced the kick-off for the upcoming Symphony season.

Devon Park, Fort Collins Symphony, played a French Horn piece.

Stephanie Blochowiak reported on her attendance at the American Planning Association (APA) conference and discussed the keynote speaker, Richard Florida's summary of his recent book, *The New Urban Crisis*. She discussed three legislative priorities the APA has identified to support stronger and more just communities through good planning.

Pat Parker, Crossroads Safehouse Executive Director, stated October is Domestic Violence Awareness Month and discussed the services provided by Crossroads Safehouse.

John Baum opposed the proposed stormwater fees for the Blehm annexation area and discussed the legal opinion of the City on the subject.

Carrie Clark, Crossroads Safehouse, thanked the Mayor and Council for the Domestic Violence Awareness Month proclamation.

Jed Link discussed the importance of adequate cell service in terms of public safety.

Donna Rouner, Crossroads Safehouse Board of Directors, thanked the Mayor and Council for the Domestic Violence Awareness Month proclamation.

Howard Dotson requested that the Fort Collins Council and other municipalities pass resolutions denouncing white supremacy, stating now is the time for moral leadership.

● **CITIZEN PARTICIPATION FOLLOW-UP**

City Attorney Daggett stated Council had discussed enacting a provision that would allow Council to modify the stormwater fee for a temporary period at the time of annexation. In discussing the topic, Council decided the preferred approach would be to look at the stormwater fee calculation process, rather than making an exception for that annexation.

Councilmember Summers stated he would like to see consideration for the homeowners in the Blehm Annexation area. Kevin Gertig, Utilities Executive Director, replied Utilities staff would be happy to meet with residents and report back to Council.

Mayor Pro Tem Horak stated he would like to see a broader examination of the fee calculation.

Councilmember Martinez asked about the citizen's concerns relating to cell towers. Tyler Marr, Policy and Project Analyst, replied macro towers go through the City's land use process. Council approved a moratorium on small cells and staff is currently in the process of developing regulations allowing for small cells to be placed in the City rights-of-way. It is anticipated those regulations will be before Council in November.

● **CONSENT CALENDAR**

Mayor Pro Tem Horak withdrew Item Nos. 4, *First Reading of Ordinance No. 131, 2017, Appropriating Prior Year Reserves in the General Fund to Reimburse Avago Wireless Technologies (USA) Manufacturing, LLC for Use Taxes and Business Property Taxes as Provided in Business Investment Agreements*, and 5, *First Reading of Ordinance No. 132, 2017, Amending Chapter 7.5 of the Code of the City of Fort Collins Regarding the Imposition of Capital Expansion Fees Adopted in Ordinance No. 049, 2017*, from the Consent Agenda.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Overbeck, to adopt and approve all items not withdrawn from the Consent Agenda.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Gerry Horak, District 6
SECONDER:	Bob Overbeck, District 1
AYES:	Martinez, Stephens, Summers, Overbeck, Troxell, Horak
ABSENT:	Cunniff

1. **Consideration and Approval of the Minutes from the September 5, 2017 Regular Council Meeting and the September 12, 2017 Adjourned Council Meeting. (Adopted)**

The purpose of this item is to approve the minutes from the September 5, 2017, Regular meeting and the September 12, 2017 Adjourned meeting.

2. **Second Reading of Ordinance No. 129, 2017, Amending Articles 2, 3, 4 and 5 of the Land Use Code Regarding Off-Site Construction Staging. (Adopted)**

This Ordinance, unanimously adopted on First Reading on September 19, 2017, revises the Land Use Code to include off-site construction staging as a permitted use. This Ordinance will create a license process to establish this use and provide requirements for approval of off-site construction staging.

3. **First Reading of Ordinance No. 130, 2017, Appropriating Prior Year Reserves and Unanticipated Revenue in Various City Funds and Authorizing the Transfer of Appropriated Amounts Between Funds or Projects. (Adopted)**

The purpose of this item is to combine dedicated and unanticipated revenues or reserves that need to be appropriated before the end of the year to cover the related expenses that were not anticipated and, therefore, not included in the 2017 annual budget appropriation. The unanticipated revenue is

primarily from fees, charges, rents, contributions and grants that have been paid to City departments to offset specific expenses.

4. **Resolution 2017-089 Finding Substantial Compliance and Initiating Annexation Proceedings for the Fox Hills Second Annexation. (Adopted)**

The purpose of this item is to initiate annexation proceedings for the Fox Hills Second Annexation, containing 20.4 acres, into the City of Fort Collins. The annexation is located approximately 3,300 feet west of the intersection of County Road 38E (Harmony Road) and Taft Hill Road. The annexation area includes all of Red Fox Road, which is located on the south side of County Road 38E. The annexation area also includes 31 single-family dwellings and residual open land that are part of the Fox Hills subdivision west of Red Fox Road. The requested zoning for this annexation is the Residential Foothills (R-F) zone district, which complies with the City of Fort Collins Structure Plan. The surrounding properties are existing residential uses.

The proposed Resolution makes a finding that the annexation petition substantially complies with the Municipal Annexation Act, determines that a hearing should be established regarding the annexation, and directs that notice be given of the hearing. The hearing will be held at the time of First Reading of the annexation and zoning ordinances; not less than thirty days of prior notice is required by state law.

5. **Resolution 2017-090 Approving the Appointment of Delynn Coldiron as City Clerk. (Adopted)**

The purpose of this item is to approve the City Manager's appointment of Delynn Coldiron as City Clerk, replacing former City Clerk Wanda Winkelmann.

● **STAFF REPORTS**

Carol Webb, Water Resources Treatment Operations Manager, reported on three projects funded through the budgeting process: the chlorine contact basin capital project, the UV disinfection capital project, and the household hazardous waste collection events funded through the stormwater utility.

Councilmember Overbeck asked how many gallons of water are treated in the UV facility daily. Webb replied the facility treats around 13 million gallons a day.

● **COUNCILMEMBER REPORTS**

Mayor Pro Tem Horak reported on the Pitkin Bikeway ribbon cutting and a trip to Washington, D.C. to address the Halligan Reservoir project permitting and I-25 and other transportation issues. Staff and Councilmembers also met with the Intergovernmental Affairs Office.

Councilmember Stephens reported she and Councilmember Overbeck met with Housing and Urban Development representatives to discuss CDBG funds.

Councilmember Overbeck reported on the new scoring system for federal grant applications.

Councilmember Martinez reported on the grand opening of Haselden Construction Company on North College.

Councilmember Overbeck reported on a visit to Riffenburgh Elementary.

Councilmember Stephens reported on a visit to Coyote Ridge Elementary.

Mayor Troxell reported on a visit to Tavelli Elementary, the open house for the Lemay Avenue realignment and grade-separated railroad project, and a community learning event about social return on investment at Woodward.

● **CONSIDERATION OF COUNCIL-PULLED CONSENT ITEMS**

6. **First Reading of Ordinance No. 131, 2017, Appropriating Prior Year Reserves in the General Fund to Reimburse Avago Wireless Technologies (USA) Manufacturing, LLC for Use Taxes and Business Property Taxes as Provided in Business Investment Agreements. (Adopted on First Reading)**

The purpose of this item is to appropriate \$397,716 of prior year reserves from the General Fund for a rebate to Avago Technologies Wireless (U.S.A.) Mfg., LLC. ("Avago") for use tax and business personal property tax rebates under two business investment agreements. The agreements provide business investment assistance to Avago for the expansion and retrofit of Avago's Building 4 for a wafer fabrication facility in 2012 and for a FBAR clean room facility in 2013. These two projects were required to create an additional 227 primary jobs in the City, and net 617 full time equivalents.

Mayor Pro Tem Horak stated he pulled this item due to a citizen request.

Eric Sutherland stated the City Charter prohibits the type of appropriation this ordinance contemplates and voters should be asked for their permission to amend the Charter.

City Attorney Daggett stated this issue has been addressed several times per Mr. Sutherland's inquiries. A Charter amendment was presented to voters in 1991 and it failed; therefore, the Charter was not changed. Staff disagrees with Mr. Sutherland on the meaning of the Charter language.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Summers, to adopt Ordinance No. 131, 2017, on First Reading.

RESULT:	ORDINANCA NO. 131, 2017, ADOPTED ON FIRST READING [UNANIMOUS]
MOVER:	Gerry Horak, District 6
SECONDER:	Ken Summers, District 3
AYES:	Martinez, Stephens, Summers, Overbeck, Troxell, Horak
ABSENT:	Cunniff

7. **First Reading of Ordinance No. 132, 2017, Amending Chapter 7.5 of the Code of the City of Fort Collins Regarding the Imposition of Capital Expansion Fees Adopted in Ordinance No. 049, 2017. (Adopted)**

The purpose of this item is to amend Sec. 7.5-19 of the City Code related to the Imposition, Computation and Collection of fees for development projects that had an approved Project Development Plan prior to the adoption date of Ordinance No. 049, 2017.

Mayor Pro Tem Horak stated he pulled this item due to a citizen request.

Linda Ripley, representing Landmark Properties, developers of The Standard, discussed the project and its extensive development review process resulting in a unanimous vote of approval from the Planning and Zoning Board and no opposition from citizens. Costs mounted during the

development review process and the addition of \$763,000 in fees at this late stage in the development review process is unfair.

Eric Sutherland discussed the shared expense of capital improvement projects and stated revisiting the fee calculation at this point is unfair. He stated these large multi-unit residential complexes are not creating home ownership opportunities for Fort Collins citizens.

Councilmember Summers noted consideration was given to the timing of the implementation of the new capital expansion fees and this ordinance addresses potential issues with that timing.

Councilmember Summers made a motion, seconded by Councilmember Martinez, to adopt Ordinance No. 132, 2017, on First Reading.

Mayor Pro Tem Horak stated the length of time it may be from the time a project is approved to when the project is built was not considered when the new fees were calculated.

City Manager Atteberry stated, of the 18 projects evaluated for this issue, this was the only one brought before Council for a change.

RESULT:	ORDINANCE NO. 132, 2017, ADOPTED [UNANIMOUS]
MOVER:	Ken Summers, District 3
SECONDER:	Ray Martinez, District 2
AYES:	Martinez, Stephens, Summers, Overbeck, Troxell, Horak
ABSENT:	Cunniff

● **DISCUSSION ITEMS**

8. **Resolution 2017-091 On a Community Trust Initiative Rescinding Resolution 2006-085 and Directing the City Manager to Create a Task Force Regarding Immigrant Communities.**
(Adopted as Amended)

This item is a proposed resolution demonstrating the City's commitment to supporting immigrant communities by providing clarity on organizational policies and rescinding Resolution 2006-085, as well as creating a task force to research issues relating to immigrant community members' needs.

(Secretary's note: Resolution 2017-091 was mislabeled as Resolution 2017-089 in the materials provided to City Council. The Resolution was correctly numbered and published as Resolution 2017-091; however, the motions made by Council referenced Resolution 2017-089 in error.)

Jackie Kozak-Thiel, Chief Sustainability Officer, stated the Community Trust Initiative is specifically related to immigrant communities in Fort Collins. The community brought a proposed ordinance in May that proposed making it illegal for City employees to ask, stop, or detain anyone based on their citizenship status or perception thereof. Exceptions related to state and federal law or criminal investigations were included. Based on that community ordinance, Council directed staff to analyze and evaluate existing policies and practices to see how they differ and align with the proposed ordinance. A report based on that evaluation was presented to Council in July and included several recommendations for consideration, including the consideration of a resolution rather than an ordinance.

Kozak-Thiel stated every instance in which City staff has requested citizenship documentation was due to state and federal requirements. She discussed the public outreach and stakeholder

group process and noted people are afraid to report crimes and interact with government officials. Individuals requested clarity as to the City's role, practices and policies and a statement of support, as well as assurance of accountability on the part of employees, particularly police officers.

Kozak-Thiel reported on changes to the City's personnel policies which now include citizenship status as a protected class and make it explicit when it is permissible for City employees to request documentation. She discussed the proposed Resolution and its responses to feedback from stakeholder groups. She stated the City is committed to continuous engagement.

Sarah King opposed the Resolution stating it does not reflect the desired aspects discussed by stakeholders. She stated public officials need to be educated rather than citizens.

Nathan Howard opposed the Resolution and stated there are opportunities to do more regarding accountability and sustainability.

Hanna Little, Women's Commission, expressed support for the Resolution.

Garrett Lamont stated the community supports the Community Trust Ordinance noting a federal judge has blocked the Trump administration's plan to take funds away from cities that do not inquire about immigration status. He stated this Resolution does not adequately address issues or require the implementation of a task force with power to inform Council.

Howard Dotson encouraged Council to look at the Ordinance passed by Denver for a template and encouraged the community to stand together.

Eric Sutherland encouraged Council to consider legislation involving legally-protected rights. He stated there are no avenues available to petition the government for redress of grievances in civil matters.

Cheryl Distaso stated the Community Trust Coalition formed last fall presented the Community Trust Ordinance to Council because immigrants consistently expressed fear of contact with police if they are victims or witnesses of crime. She stated the input from stakeholders regarding the task force duties is not reflected in the text of this Resolution. She urged an amendment to convene a task force that would directly inform and advise Council on ways to advance community trust as safety.

Councilmember Summers stated citizen' fears need to be addressed rather than invoking fear in City employees and police officers. Fear can be addressed through fact and reality. He expressed concern that making immigration status a protected class may have legal ramifications.

Councilmember Stephens requested staff input as to the scope of the task force. Kozak-Thiel replied the intent of the task force is two-way communication and working to alleviate fears and build trust.

Councilmember Stephens requested staff compare this Resolution with those of sanctuary cities. City Attorney Daggett clarified there is no official definition of a sanctuary city; however, a sanctuary city focuses on more aggressive efforts to interfere with the work of Immigration and Customs Enforcement and actively prevent the kind of cooperation with federal enforcement that

local enforcement is expected to offer. Because the City does not operate a jail, there are numerous issues not applicable to the City.

Councilmember Stephens requested staff input about the training employees receive regarding these issues. Teresa Roche, Chief Human Resources Officer, replied new employees are provided training about being welcoming to other employees and citizens. All employees must sign a policy acknowledgement, which involves discussion.

Greg Yeager, Deputy Police Chief, stated police officers receive a great deal of initial training and upcoming in-service training will focus on these topics.

Councilmember Martinez asked if the City has any data on undocumented immigrants reporting crimes or being victims of crimes. Yeager replied he does not have any information regarding undocumented reports and it likely does not exist because it is the practice of officers to not ask about immigration status.

Councilmember Martinez asked about the process for an arrested individual following an arrest by City Police. Yeager replied the ultimate booking process happens at the Sherriff's detention facility.

Sherriff Justin Smith stated irrational fears are being created. Once a person is booked into the jail, the Sherriff's Department has the responsibility to identify the individual for the court system. He stated passing this type of a Resolution may have unintended consequences in terms of receipt of federal funds.

Councilmember Martinez asked if County Sherriff deputies inquire about immigration status when crimes are reported. Sherriff Smith replied in the negative.

Mayor Pro Tem Horak asked how Police Services uses the Police Manual in its training. Yeager replied there are over ten policies in the manual relating to this topic. Officers are strictly prohibited from asking victims and witnesses about their immigration status, unless those individuals are believed to be criminal suspects.

Mayor Pro Tem Horak asked who approves the Police Manual. Yeager replied the ultimate approval comes from the executive staff. The City Attorney's Office and subject matter experts review the Manual.

Mayor Pro Tem Horak asked if the Human Resources Department and City Manager's Department review the manual. Roche replied Human Resources staff have provided information and counsel on the manual. City Manager Atteberry replied not every administrative policy comes before him; however, he will provide input as requested.

Mayor Pro Tem Horak asked if the work done on this item deals with accountability, sustainability, or a statement of support. Kozak-Thiel replied the intent of the Resolution is to provide a statement of support in line with the City's mission, vision, and values. Regarding accountability, the Resolution focuses on existing policies and changes to employee policies. Trusting relationships and outreach will aid in the sustainability of a trusting and safe community.

Mayor Pro Tem Horak asked how sub-contractors are verified as following policies. Roche replied contracts can be terminated if policies are not followed; however, she will need to return with information regarding who makes verifications.

Mayor Pro Tem Horak asked how community stakeholders will be identified. City Manager Atteberry replied a balance of individuals will be sought. He requested Council be specific in its action regarding whether it sees the task force solely as having an educational role or if it should include policy.

Councilmember Summers asked if the Human Relations Commission would deal with some of these issues. Kozak-Thiel replied the Commission has been involved. The Commission would be one of the top resources in working with the task force.

Councilmember Summers requested staff input regarding issues in which ICE may become involved. Yeager replied he has never had any involvement with ICE during his 23-year career. Fort Collins Officers do not have that involvement because of the circumstances under which they interact with community members.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Stephens, to adopt Resolution 2017-089. (See Secretary's note at beginning of this item)

Councilmember Overbeck asked how long the development of the proposed guiding principles and resource document will take. Kozak-Thiel replied she anticipates that as being a near-term step in policy clarification.

(Secretary's Note: The Council took a brief recess at this point in the meeting.)

Mayor Pro Tem Horak discussed two possible amendments which would add two whereas clauses to the Resolution. Mayor Pro Tem Horak and Councilmember Stephens accepted the addition of the whereas clauses as friendly amendments.

Councilmember Summers made a motion, seconded by Councilmember Martinez, to postpone indefinitely consideration of Resolution 2017-089. (See Secretary's note at beginning of this item)

Councilmember Summers stated some of the issues could be better articulated in a different format and evidence shows current City policies are being conducted in good order. More effective communication can be dealt with through normal processes and existing departments.

Councilmember Martinez stated many of the speakers are not in favor of the Resolution.

Mayor Pro Tem Horak stated he would not support the motion and noted citizens could bring forth a citizen-initiated ordinance. He stated the Resolution reinforces the extensive staff work done over the last six months.

Councilmember Stephens agreed with Mayor Pro Tem Horak and stated this is a divisive issue in the community and the nation. People have genuine fear and this Resolution provides a good balance of not labeling Fort Collins as a sanctuary city, not breaking any federal or state laws, and still addressing residents' fear. The task force can then be relied on to find out what is happening in the community.

Councilmember Overbeck stated he would not support the motion to postpone consideration of the Resolution.

Councilmember Martinez stated he is always in support of dialogue but would like to see this redefined.

The vote on the motion to postpone indefinitely was as follows: Yeas: Summers and Martinez. Nays: Overbeck, Stephens, Horak and Troxell.

THE MOTION FAILED.

Mayor Pro Tem Horak proposed an amendment to the original motion to add language relating to listening to and addressing fears of immigrant populations through education outreach services, programs, and partnerships. Councilmember Stephens accepted the amendment as friendly.

Councilmember Summers made a motion, seconded by Councilmember Martinez, to amend the Resolution directing the City Manager to establish a communication effort to inform the public about its policies and practices and delete additional language.

Mayor Pro Tem Horak opposed the removal of the community task force.

Councilmember Summers stated his proposed language would leave the task force option available; however, it would also allow the City Manager to establish a communication effort in a less formalized process.

Councilmember Martinez suggested including language that the City Manager may also convene a task force.

Mayor Pro Tem Horak stated he could accept that language but would like a specific date identified for the City Manager to return with his information.

(Secretary's Note: The Council took a brief recess at this point in the meeting.)

City Attorney Daggett reviewed the changed language under the proposed amendment.

Mayor Pro Tem Horak and Councilmember Stephens accepted the amended language as friendly.

Councilmember Martinez supported open communication, though he is unsure a Resolution is the correct option. He expressed appreciation for the City's actions and policies currently and in the past and stated he does not want a duplication of efforts of the Human Relations Commission. He requested regular updates between now and the end of May. City Manager Atteberry committed to providing at least two written updates before the end of May.

Councilmember Summers stated crimes need to be reported, particularly in terms of human trafficking.

Councilmember Stephens discussed the importance of engaging people in the immigrant community.

Councilmember Martinez commended City Manager Atteberry, Kozak-Thiel and other staff for their work.

Mayor Troxell commended Councilmembers for working through this. He stated Fort Collins is not a sanctuary city, but is and needs to be a safe, diverse, and inclusive community.

RESULT:	RESOLUTION 2017-091 ADOPTED AS AMENDED [UNANIMOUS]
MOVER:	Gerry Horak, District 6
SECONDER:	Kristin Stephens, District 4
AYES:	Martinez, Stephens, Summers, Overbeck, Troxell, Horak
ABSENT:	Cunniff

● **ADJOURNMENT**

The meeting adjourned at 9:31 PM.



Mayor

ATTEST:



City Clerk

