

December 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, Summers, Overbeck, Troxell, Cunniff, Horak
Staff present: Atteberry, Schmidt, Coldiron

1. **Resolution 2017-106 Authorizing Execution of an Intergovernmental Agreement Concerning Boxelder Basin Regional Stormwater Authority Project Improvements. (Adopted)**

The purpose of this item is to authorize the Mayor to execute a new intergovernmental agreement among the founding members of the Boxelder Basin Regional Stormwater Authority (BBRSA) and the Town of Timnath (or the Timnath Development Authority) (Timnath). Several issues and concerns have been raised by the founding members of the BBRSA concerning fees, long term asset maintenance and how the BBRSA will be ultimately dissolved. Staff has worked with the other members and Timnath (not a member of the Authority but a participant in the funding of an Authority asset) to resolve outstanding issues and propose a path to long term asset care and Authority dissolution.

The proposed Agreement memorializes the agreements among the parties. With this agreement, all members commit to promptly remitting all fees due the BBRSA which will allow final payment of the Day Settlement by Dec 31, 2017. The agreement includes cost sharing details for future expenses, creation of maintenance reserve accounts for the two principal assets, outlines the transfer of these assets to Larimer County plus the maintenance reserve accounts after the Colorado Water Conservation Board (CWCB) loans are paid in full and maintenance reserve accounts have been filled from BBRSA revenue and provisions for allocation of maintenance and repair costs in excess of the funded reserve accounts.

Mike Beckstead, Chief Financial Officer, stated the Boxelder Stormwater Authority was formed in 2009 with the objective of correcting some multi-jurisdictional issues in the Boxelder Basin. In the original agreement, there was no clear definition of how to handle long-term maintenance for assets of the Basin or the disposition of the Authority. He detailed the cost share for Boxelder partners and stated revenues are anticipated to allow a faster pay down on the debt and buildup of the reserves than the debt schedule covers; therefore, the paydown of the debt should be synchronized with the buildup of the long-term reserve funds.

Beckstead provided a summary of the Authority's cash flow and stated the IGA includes a grant match reimbursement waiver, the remittance of fees, and settlement ratification. The Authority would be dissolved once the loan is paid down, the assets have been transferred, and an equalization payment is made. Should the Mulberry annexation occur, it may have a significant effect on how revenue is recognized. The agreement does not create any new obligations for rate payers in any of the jurisdictions and assets will transfer to the care of the County upon dissolution of the Authority.

Beckstead stated there was no opposition to this agreement during outreach efforts and the County has agreed to support the agreement.

Eric Sutherland stated this agreement does not comport with Colorado law.

Councilmember Martinez asked how audit committee members are selected. Mayor Pro Tem

Horak replied the audit committee was created to continue the ad hoc committee and to institutionalize the work that has been occurring.

Councilmember Martinez asked about the \$500,000 out-of-court settlement. Judy Schmidt, Senior Assistant City Attorney, replied a court proceeding between the Authority and the property owner did occur; however, the City was not a party to the settlement.

Mayor Pro Tem Horak stated the settlement with the Days holds each party harmless, was for \$1.68 million and included several items.

Councilmember Martinez asked if the Colorado Constitution or City Charter are being violated in this instance. Schmidt replied in the negative and stated the City Attorney's Office disagrees with those assertions.

Councilmember Cunniff asked if there is any time period when the funds in the Authority's fund balance go negative. Beckstead replied in the negative.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Overbeck, to adopt Resolution 2017-106.

Mayor Pro Tem Horak noted Timnath is considering its town budget as well as its development authority budget, within which are the funds for their portion. He commended Timnath, Wellington, and the County for their partnership and stated the audit committee is a good idea. He complimented Beckstead on his work.

Councilmember Cunniff stated he would support the motion.

Mayor Troxell stated this IGA reflects a good solution and thanked Mayor Pro Tem Horak for his work on Fort Collins' behalf.

Mayor Pro Tem Horak changed his motion to include the amended agreement. Councilmember Overbeck accepted the change.

RESULT:	RESOLUTION 2017-106 ADOPTED [UNANIMOUS]
MOVER:	Gerry Horak, District 6
SECONDER:	Bob Overbeck, District 1
AYES:	Martinez, Stephens, Summers, Overbeck, Troxell, Cunniff, Horak

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, that the Council go into executive session as permitted under Section 2-31(a)(1) of the City Code and Colorado Revised Statutes 24-6-402(4)(f)I for the purpose of discussing the compensation of the City Manager, City Attorney, and Municipal Judge.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Gerry Horak, District 6
SECONDER:	Ross Cunniff, District 5
AYES:	Martinez, Stephens, Summers, Overbeck, Troxell, Cunniff, Horak

● **OTHER BUSINESS**

Mayor Pro Tem Horak discussed the Platte River Power Authority board meeting during which the Zero Net Carbon profile analysis was presented. The analysis was done independently by a consultant and showed a financially feasible path forward. New transmission lines will be needed; however, details have yet to be outlined.

Councilmember Cunniff stated he would prefer no new road construction with transmission line construction.

Mayor Pro Tem Horak noted there is nothing considered for the Soapstone property.

Mayor Troxell stated this is positive for Fort Collins and encouraged the City Manager and staff to take this report and proactively apply it to our distribution utility.


● **ADJOURNMENT**

The meeting adjourned at 7:19 PM.



Mayor

ATTEST:



City Clerk

