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FORT COLLINS CITY COUNCIL MEETING

(Excerpt)

November 3, 2015

Agenda Item 7

**EXHIBIT
D**

1 (There were proceedings had, not
2 transcribed herein.)

3 MAYOR TROXELL: This brings us to item
4 No. 7, which is the second reading of Ordinance
5 No. 134-2015, making certain amendments to Section
6 17-142 of the code of the City of Fort Collins related
7 to public nudity.

8 May I please see a show of hands of who
9 would like to comment on this tonight?

10 Please line up and -- and you'll have
11 two and a half minutes for comment. Please line up.
12 We have two microphones and -- and please -- and when
13 everybody is lined up, we can get started.

14 Okay. Please.

15 MR. HOAGLUND: Good evening, City
16 Council. My name is Aaron Hoaglund. I'm going to go
17 pretty fast through this because I was pretty sure we
18 would have 3 minutes. I'm here today to give you a
19 brief history of modesty and of being bare-chested in
20 America because I don't know if you know this: Before
21 1936, it was, in fact, illegal for men to be topless or
22 bare-chested.

23 In 1934, four men were cited on Coney
24 Island for a dollar each, and the governing body said
25 that there are many people who object to seeing so much

1 of your bodies exposed. The first male bare chest in a
2 movie was Clark Gable in 1934, which, during the same
3 year, there were bare-chested women being burned on
4 crosses in similar movies.

5 In 1935, 42 men were arrested for being
6 bare-chested in New Jersey. And in 1936, they got the
7 right to be bare-chested.

8 In the fifties, the female navel was
9 still considered to be indecent.

10 In 1986, seven women were arrested in
11 Rochester, New York, which led to the New York Supreme
12 Court ruling that it was legal to be topless in 1992.
13 Judge Vito J. Titone said in his concurrence "One of
14 the most important purposes to be served by the Equal
15 Protection Clause of New York is to ensure that public
16 sensibilities grounded in prejudice and unexamined
17 stereotypes do not become enshrined as part of the
18 official policy of Government."

19 I wonder if you have examined the public
20 prejudices that have led to your ruling on Option 1 of
21 this ordinance.

22 The law that the women were said to have
23 been violating read, "A person is guilty of the petty
24 offense of exposure when he or she appears in a public
25 place in a manner that the private or intimate parts of

1 his or her body are unclothed or exposed and that" --
2 this is the key -- "the private or intimate parts of a
3 female person shall include that portion of the breast
4 which is below the top of the areola." Basically,
5 exactly your language or very similar.

6 Judge Titone further stated the statute
7 thus creates a clear gender-based classification
8 triggering scrutiny under Equal Protection principles.

9 New York's Equal Protection clause reads
10 very similar to Colorado's. "No person shall be denied
11 the equal protection of the laws in this state or any
12 subdivision thereof." Like I said, Colorado is very
13 similar.

14 If you continue to criminalize women for
15 acting in the same manner as men, you can pretty well
16 expect to see a similar legal challenge as to what was
17 seen in New York.

18 Please stop being obsessed with breasts,
19 stop perpetuating unhealthy attitudes about breasts,
20 stop discriminating against women, and rectify this
21 problem here in Fort Collins without legal challenge.

22 MAYOR TROXELL: Thank you. Next.

23 MR. ROEHRKASSE: Hello. My name is
24 Tyson Roehrkasse. I live in southeast Fort Collins,
25 zip code 80525. And I'm here as a concerned citizen

1 and as a decent human being because I believe that
2 approving this ordinance is detrimental to the citizens
3 of Fort Collins.

4 And I have a few things about it that I
5 disagree with. And one is the language that we're
6 using in it where we're saying that 10 years of age
7 is -- is our cutoff for when a woman is not allowed to
8 go topless.

9 How did we arrive at that figure? Who
10 decided that after this point, suddenly, a women's
11 breasts becomes sexual objects when, before, they were
12 not?

13 This, I think, kind of highlights the
14 fact that we're kind of making this up as we go along.
15 That women's breasts are not inherently sexual.

16 And if we look at other cities and
17 countries around the world, we'll see there's a great
18 many that allow topless equality without any
19 detrimental side effects.

20 And if you look at our society at large
21 and in Fort Collins, there's a saying that says sex
22 sells. I mean, that's because our entertainment
23 industry capitalizes on it. Our product advertisements
24 capitalize on it. I mean, we have commercials for
25 burgers that are sold with women in lingerie.

1 There's a lot of money to be made in
2 treating the female body as a sexual object instead of
3 as a human that needs respecting.

4 Another thing that I don't like about
5 this is that it excludes people who don't fall into the
6 strict male or female sections on the gender spectrum.
7 It's not a binary system. There's not only male and
8 female. There are people who are agender, who are
9 gender fluid, who are transgender, who don't fit into
10 these two sets, and this ordinance is completely
11 ignoring them.

12 And another part of this that bothers me
13 that's a very large discussion is that this supports an
14 attitude of rape culture, an attitude that is -- views
15 women as sexual objects and enables people to allow and
16 justify acts of sexual violence, saying that -- you'll
17 hear things like, Oh, well, she was dressed like that,
18 maybe she deserved it, was asking for it. That's all
19 part of treating women as a sexual object and not as a
20 human being.

21 So, to sum this up, I think that the
22 language in this ordinance is arbitrary, I believe that
23 it is unnecessarily sexist, and I think it supports
24 dangerous mindsets in regards to the treatment of
25 women, and I urge you to take more time to consider

1 this.

2 MAYOR TROXELL: Thank you. Next.

3 MS. SIX: Samantha Six, 80526. Tonight,
4 I have questions for you. Although I'm sure most of
5 which will receive not a direct answer by any means,
6 I'm still going to ask them.

7 Ray, do you consider yourself sexist
8 when you see women as inherently pornographic? A bare-
9 chested woman is considered pornographic because some
10 women happen to be on covers of pornographic magazines.
11 However, bare-chested men aren't thought of twice.
12 Bare-chested men also appear on pornographic magazines,
13 yet families don't disintegrate when they walk by. No
14 children cry for their mothers and question God's
15 existence. The man walks freely through his city.

16 You refer to women as pornographic and
17 have been accused of creating hostile work environments
18 for women. What makes you an adequate judge of gender
19 equality?

20 Wade, how do you feel, being the mayor
21 and face of the city that has been cited in dozens of
22 publications all over the world as being sexist and
23 blind to the real problems? Do you really still stand
24 on the It's On Us soapbox of pseudo-achievements?

25 Gino, you initiated the It's On Us

1 campaign, while you sit here and continue to tell me
2 and every other woman that we are less than men while
3 you pose for your pictures for the It's On Us campaign
4 that promises education by addressing the root causes
5 of sexual violence, including cultural beliefs about
6 power and traditional gender roles.

7 I find this quote especially
8 illuminating of your double standards. Do you have
9 anything to say about the gender roles you're
10 continuing to perpetuate?

11 Kristin, the last meeting, you said that
12 we truly -- if we truly wanted to fight for equality,
13 we need to be more concerned with the wage gap and
14 women in politics.

15 Being a woman in politics, what have you
16 done to bring gender inequality to light? By telling
17 someone that your vision of attacking gender inequality
18 is more mature or sensible is misogyny at its best.

19 To all of you passing into law an
20 arbitrary age of when children are considered sexual
21 beings is disgusting. You question our motives and
22 yet, here you sit, making children as young as 10 years
23 old potential criminals.

24 Do not pass Option 1. This is sexist,
25 discrimination, and it's on you.

1 MAYOR TROXELL: Thank you. Next.

2 MS. HOAGLUND: I challenge you all on
3 the definition of breasts by citing it as the top of
4 the breast, because you can't censor cleavage --

5 MAYOR TROXELL: Brittany, please. We'll
6 give you full time, but please your name and --

7 MS. HOAGLUND: Oh, I'm sorry. Brittany
8 Hoaglund, 80521. My bad.

9 I challenge you all on the definition of
10 breasts by citing it as the top of the breast because
11 you can't censor cleavage. Men love cleavage. They
12 just hate of rest of us.

13 Women who are upside-down can
14 technically legally expose their under-boob.

15 Also, breasts sag. So does a female
16 with sagging breasts only have to wear a pastie because
17 the technical top of the breast covers the vast
18 majority of what is now being considered illegal,
19 including the bottom half of their areola.

20 So I ask you with this ordinance, who is
21 Fort Collins really censoring? And since there is such
22 an obvious and legal differentiation between
23 pornography and intent and behavior to arouse and
24 nudity being without cloth covering, tell me why you
25 all have such a vested interest in censoring women's

1 chests when their bodies do no bodily harm to another
2 person?

3 A crime is not a crime when there is no
4 victim. And that has been held up in court.

5 I also want to let you know if you pass
6 this, there will be blood on your hands. Erasure
7 discrimination and antagonism kills people.

8 So the national suicide rate is
9 4.6 percent. Did you know 41 percent of trans and
10 gender-nonconforming people attempt suicide at least
11 once? Why? It's almost like when you ignore people
12 exist, they don't feel welcome to live. It's almost
13 like when you discriminate against them, others will,
14 too.

15 Did you know that intersex people are as
16 common as redheads? One in 2,000. Meaning there's 75
17 people in Fort Collins who you have actively erased,
18 thanks to your unanimous need to censor female bodies.

19 I also want to add by following through
20 with this ordinance, you will do the exact opposite of
21 what the It's On Us campaign is supposed to do: Reduce
22 sexual assault.

23 Did you all think that saying women's
24 bodies are inherently more pornographic than men would
25 reduce rape? Did you all think that by suggesting

1 women's chests are commodities like marijuana and
2 alcohol, according to Martinez, would reduce
3 objectification? Did you all really understand that by
4 protecting minors from breasts, that you would end up
5 criminalizing minors as young as 10?

6 What happens to those minors anyway? Do
7 they go into the juvenile system? Arrested? Taken
8 from their homes? Or will the parents have to fork
9 over \$250 and tell their child that people magically
10 started sexualizing her body on her 10th birthday?

11 Rather than creating laws to stop
12 pedophiles, Fort Collins created laws to stop her
13 having the same rights as her brother.

14 I can't believe I have to tell you this,
15 but I am not more of a commodity than a man. I am not
16 more pornographic than a man. The law should treat me
17 equally to men. Anything less is sexist. Don't pass
18 this.

19 MAYOR TROXELL: Thank you. Next.

20 MS. HANSON: Hi, everyone. I'm Lea
21 Hanson. I'm here to represent the City of Fort Collins
22 Womens Commission.

23 After listening to Council conversations
24 and public comment at the October 20th City Council
25 meeting regarding the revisions to the public nudity

1 ordinance, the City of Fort Collins Womens Commission
2 is compelled to provide you with a reiteration and
3 clarification of our recommendations for these changes.

4 Although the Womens Commission provided
5 a formal letter of recommendation to you prior to the
6 October 20th meeting, we did not speak at the
7 meeting. Tonight, my intention is to verbalize our
8 stance to you, as well as to the public who might be
9 interested.

10 The Womens Commission maintains our
11 support for changing the public indecency ordinance of
12 the City of Fort Collins to update the language that
13 applies equal -- that applies equal responsibility
14 between and among genders. Therefore, Option 2.

15 We would like to clarify our
16 commission's stance on this issue is not a vote for
17 toplessness; rather a vote against any code, statute,
18 ordinance, or law that holds women to a different and,
19 in this case, stricter code of conduct than it holds
20 men.

21 While we remain in support of the
22 ordinance at its Option 2, we are open to contributing
23 to a dialogue that continues to explore the evolution
24 of the ordinance.

25 Thank you for your attention to this

1 important issue. We are happy and eager to support
2 your efforts in creating inclusive and nonsexist
3 policies whenever we can.

4 MAYOR TROXELL: Thank you, Lea. Next.

5 MR. ELLIOTT: Tom Elliott, 80526. I
6 just want to remind you that about two weeks ago, there
7 was -- this room was filled with people, 98 percent of
8 whom favor Option 1. 45 of those people, most of whom
9 do not like to do public speaking, spoke up, giving
10 some really good, common-sense, rational reasons why
11 nudity should not be allowed.

12 And then I don't know how many, but I'm
13 assuming at least hundreds -- maybe more -- of emails
14 came your way. And so I just wanted to remind you of
15 that tonight, to unanimously vote again for Option 1.
16 Thanks.

17 MAYOR TROXELL: Thank you, very much.
18 Next.

19 MR. KNOBEL: Monty Knobel, citizen of
20 Fort Collins, 80524. Thank you for the opportunity for
21 all of us to speak. Rather like Tom, looking back to
22 two weeks ago, you heard a pretty good representation
23 of our community speak here. Both sides of the
24 argument.

25 I appreciate the fact again that -- that

1 that was a -- allowed then and is now.

2 Councilmember Martinez, a little while
3 ago, spoke of the pride that we have in our community
4 for the many good things that we have: The many
5 services, the police protection, things going on in our
6 public schools and all those kinds of services that we
7 provide for our citizens that keep them safe and make
8 Fort Collins a wonderful place.

9 It seems like there's kind of a front
10 door and a back door -- two sides, possibly -- to
11 making our city a good city. One, as we've spent a lot
12 of time discussing this evening, is police services,
13 training opportunities, those kinds of things.

14 There have been many mentions of, in the
15 past, being a family-friendly city. This is a
16 destination city that people like to come to and bring
17 their revenues into this city. It's one of the top ten
18 cities by many standards.

19 There's kind of a back door to keeping
20 this reputation. That is that we don't relax and
21 provide opportunity for behaviors that, historically,
22 have been negative and which can allow and/or encourage
23 behaviors which lead to destructive and criminal
24 activity. Those eliminate revenues, they eliminate
25 people coming here, not to mention the much more

1 negative impact on the personal lives of the community
2 and individuals through -- through their losses as
3 victims of sex crimes, which can be encouraged or
4 allowed by these decisions.

5 Council's vote on the issue is critical
6 for the general quality of life of Fort Collins
7 citizens, the impression of the rest of our nation and
8 neighbors, those who would come and live here, as well,
9 and the raising of families and the aforementioned
10 future leaders of our city and nation which were spoken
11 of earlier.

12 MAYOR TROXELL: Thank you. Next.

13 MR. MARCHEL: Hi. My name is Trey
14 Marchel. I'm in Ray's district. I'll keep this brief,
15 and -- just thinking as far as publications and
16 comments from my fellow citizens, some of whom are
17 represented.

18 City Council's meeting showed the
19 misogynistic body-shaming values in Fort Collins. They
20 called us antifamily, they religion-shamed us. Shaming
21 is a new thing, I guess. They called us weak parents.
22 They were so crazy with their reasoning last night.
23 Fort Collins showed straight-up ugliness and ignorance.
24 They were hateful. It was an ugly free-for-all. And I
25 kind of took offense to what they said they need to

1 educate Kristin Stephens about women's rights in the
2 21st century.

3 As far as other cities showing --
4 adopting toplessness, the City of Chicago actually
5 voted down this, as they said they were allowed to make
6 laws when differences are pretty obvious as far as
7 women's breasts and men's chests are concerned.

8 And then, something that stuck with me
9 the last time I spoke with you guys was the previous
10 statement of a lady who was afraid to lose her home.
11 And I found it more worrisome that we're dealing with
12 this problem than -- and almost -- that lady was
13 completely forgotten about.

14 So I really feel like we -- until we
15 have no more homelessness, then we can worry about
16 topless women in Fort Collins. So thank you.

17 MAYOR TROXELL: Thank you. Next. There
18 we go.

19 MS. ROEHRKASSE: There we go. Good
20 evening, everybody. My name is Elise Roehrkasse. I'm
21 from 80525.

22 How do I say this? When I first heard
23 that -- I'm going to back up. I'm going to back up and
24 I'm going to quote your own Constitution, the Colorado
25 State Constitution, which states in Article II, Section

1 29, equality of rights under the law shall not be
2 denied or abridged by the State of Colorado or any of
3 its political divisions on account of sex.

4 If you pass this ordinance, you're going
5 up -- it's conflicted. It doesn't -- you can't pass
6 this and then -- oh. Okay. I'm going to breathe for a
7 moment.

8 If you pass this law or this ordinance,
9 you are actively going up against your own State
10 Constitution, as well as actively going up against the
11 United States Constitution, which states in the 14th
12 Amendment, which I'm sure all of you should know --
13 every single one of you sitting here should know what
14 it says -- no state shall make or enforce any law which
15 shall abridge the privileges or immunities of the
16 citizens of the United States or deny any person within
17 its jurisdiction the equal protection of the laws.

18 You have a lawsuit on your hands -- a
19 huge one -- if you pass this. It's sexist. It's
20 discriminatory. And it goes up against your own
21 freaking laws that you all have been elected to uphold
22 by the people.

23 Regardless of a public that is full of
24 fear and full of shame and full of religion --
25 regardless of all of that, you have a legal

1 responsibility to uphold your own laws. That alone is
2 huge and you need to keep that in mind regarding
3 passing this.

4 The other thing I'd like to say is that
5 women are not commodities. My breasts are not
6 commodities. The fact that it is okay for us to have
7 advertisements on television and our local storefronts
8 that show this much cleavage -- that that's fine and
9 yet, the moment my nipple shows, suddenly, it's -- it's
10 illegal, that doesn't make any sense.

11 The last thing I'd like to say regarding
12 the family-friendly argument, is it really family-
13 friendly if you're promoting -- actively promoting laws
14 that discriminate against half of your population?
15 That's your family. Those are your daughters and your
16 wives and that's you, Kristin. That is you. Every
17 single one of you, those are your families.

18 This is the kind of law that you want to
19 pass? I don't think so. Don't pass it. Thank you.

20 MAYOR TROXELL: Thank you. I'll bring
21 it back to Council. Any comments?

22 A motion?

23 MAYOR PRO TEM HORAK: Oh, yeah.

24 MAYOR TROXELL: Jerry?

25 MAYOR PRO TEM HORAK: Yes. I move the

1 adoption of Ordinance 134, making certain amendments to
2 Section 17-142 of the code of City of Fort Collins
3 related to public nudity.

4 COUNCILPERSON MARTINEZ: I second.

5 MAYOR TROXELL: Motion seconded. Any
6 additional comments? Final comments?

7 I would just say this is the second
8 reading of this ordinance. I appreciated the people
9 that spoke before us tonight. You know, I'd just
10 reiterate, you know, on first reading, the -- as a
11 couple of the speakers pointed out about the -- the
12 number of people that spoke at first reading. I
13 appreciated Lea coming tonight and speaking on behalf
14 of the Womens Commission and providing that and -- and
15 the other speakers here tonight.

16 You know, I think, as I said last time,
17 our -- our city -- our citizens spoke loud and clear
18 with respect to this particular ordinance, and I think
19 that's where we have -- that's the one that's -- the
20 motion before us, and I'll be supporting it. Ross?

21 COUNCILPERSON CUNNIFF: Thanks, Mayor.
22 I really don't intend to respond to all the discussion
23 that we had this evening, but just wanted to point out
24 again that we are making some important changes with
25 respect to nursing mothers, clarifying our intent with

1 respect to where we're going with this.

2 I understand the logic that this is
3 brought up with respect to the language in the
4 Constitution. There is a difference of opinion,
5 though, on what that actually applies to with respect
6 to this particular ordinance.

7 As I said, I understand the logic, but
8 we really can't get too far ahead of our community at
9 City Council or they will turn around and just -- I
10 mean, the war -- the -- I think it's up to the
11 community, if they want to override us, to go one way
12 or another. At this point, it seems to me that the
13 community has spoken, and so I support it as we have it
14 here.

15 MAYOR TROXELL: Anybody else? Okay.
16 Jerry?

17 MAYOR PRO TEM HORAK: So the part about
18 whether it's unconstitutional or not, the courts can
19 determine that and who would ever like to bring
20 something forward or if you want to do, as Ross is
21 pointing out, a referendum, you can also do that. You
22 have so much time to get that done after -- to file
23 something with the City Clerk if you want this
24 ordinance to go to a vote or initiate another ordinance
25 which would override this particular ordinance.

1 But at any time and over the last any
2 number of years, the previous ordinance could have been
3 ruled unconstitutional, though no one brought up
4 anything about it. So it's up to the people if they
5 would like to change something.

6 MAYOR TROXELL: Kristin?

7 COUNCILPERSON STEPHENS: Thank you,
8 Mayor. I want to thank everybody who spoke tonight.
9 There's, obviously, a lot of passion around this issue,
10 and I appreciate the member of the Womens Commission
11 coming forward and that they want to contribute to this
12 dialogue.

13 My belief is that this dialogue will
14 probably continue and -- and may evolve at some point,
15 but, right now, the community support is around
16 supporting Option 1, and so I'll be supporting Option
17 1.

18 MAYOR TROXELL: Other comments?

19 Roll call, please.

20 CITY CLERK: Campana?

21 COUNCILPERSON CAMPANA: Yes.

22 CITY CLERK: Stephens?

23 COUNCILPERSON STEPHENS: Yes.

24 CITY CLERK: Cunniff?

25 COUNCILPERSON CUNNIFF: Yes.

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CITY CLERK: Horak?

MAYOR PRO TEM HORAK: Yes.

CITY CLERK: Troxell?

MAYOR TROXELL: Yes.

CITY CLERK: Martinez?

COUNCILPERSON MARTINEZ: Yes.

CITY CLERK: Overbeck?

COUNCILPERSON OVERBECK: Yes.

MAYOR TROXELL: It passes.

(There were further proceedings had, not
transcribed herein.)

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C E R T I F I C A T E

STATE OF COLORADO)
) ss
COUNTY OF ARAPAHOE)

I, Bonnie Carpenter, do hereby certify
that the above recorded proceedings were reduced to
typewritten form under my supervision;

That the foregoing is a true and
correct transcript of the recording then and
there taken done to the best of my ability under the
circumstances;

That I am not kin or in anywise
associated with any of the parties to said cause of
action or their counsel and that I am not interested
in the event thereof;

IN WITNESS WHEREOF, I have hereunto
set my hand and seal this ____ day of _____,
2016.

Bonnie Carpenter
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