

February 27, 2015

COUNCIL OF THE CITY OF FORT COLLINS, COLORADO

Council-Manager Form of Government

Adjourned Meeting – 4:00 PM

● ROLL CALL

PRESENT: Weitkunat, Overbeck, Campana, Troxell, Cunniff, Horak  
ABSENT: Poppaw

Staff present: Atteberry, Daggett, Nelson

1. **Emergency Ordinance No. 040, 2015, Of the Council of the City of Fort Collins, To Repeal Certain Provisions of City Code Section 17-127 Pertaining To Panhandling. (Adopted)**

*This is an emergency ordinance to repeal certain provisions to the City's panhandling ordinance found in City Code Section 17-127. On February 10th a class-action lawsuit was filed in federal court against the City challenging certain provisions in that ordinance. The purpose of this emergency ordinance is to moot, for now, much of the lawsuit, in order to give City staff and the Council more time to review the challenged provisions, to consider any changes to them, to conduct any needed public outreach and for staff to present to Council for future consideration an ordinance to possibly reinstate these repealed provisions or to consider amendments to them.*

City Manager Atteberry discussed the history of the City's panhandling Ordinances and stated the American Civil Liberties Union (ACLU) recently filed a class action lawsuit against the City challenging the constitutionality of seven of the eleven provisions of this Code section, which prohibits certain kinds of aggressive panhandling. The remaining four provisions are not being challenged as part of this lawsuit. This Emergency Ordinance will repeal the seven provisions being challenged by the ACLU and would alleviate the monetary pressure associated with this type of litigation and allow staff and Council time to more carefully review the challenged provisions, to conduct any needed public outreach concerning them, and to prepare and present an ordinance to reinstate some or all of the repealed provisions with any recommended amendments.

City Attorney Daggett noted it is not certain how the adoption of this Emergency Ordinance will affect the next steps in the litigation.

Eric Sutherland noted there are no social services representatives from Larimer County in attendance and discussed the need to develop these regulations harmoniously between the City and County.

Stacy Lynne stated the Colorado Revised Statutes cover the issues in the lawsuit and expressed concern the City's Ordinances are attempting to make the State Statutes less relevant. Additionally, she asked why a lawsuit was required in order for the City to be made aware these Ordinances are violating constitutional rights. She also questioned why these regulations would be used against this vulnerable population.

Cheryl Distaso stated a panhandling Ordinance is redundant given existing harassment and disorderly conduct regulations and encouraged the permanent repeal of the Ordinance.

Barb Wilkins expressed concern regarding the quantity of panhandlers and the length of time they spend at any one location citing an example of an elderly man who fell while attempting to avoid a panhandler.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Campana, to adopt Emergency Ordinance No. 040, 2015.

Councilmember Troxell requested the City Attorney address the issue of ordinances versus state statutes. City Attorney Daggett replied City Code provisions are enforceable by the City in Municipal Court and may overlap with state provisions. She noted that will be further analyzed as staff examines the issue.

Councilmember Troxell requested additional information regarding collaboration with Larimer County. Deputy Police Chief Jerry Schiager replied the City collaborates with Larimer County social services; however, they may not see their role as being involved with City policy making.

Councilmember Campana commended Deputy Chief Schiager on his work.

Councilmember Cunniff stated he would support the Ordinance and noted the intent of the Ordinance is to address aggressive panhandling.

Mayor Weitkunat noted only a portion of the regulations are being repealed at this point and the most aggressive aspects will remain in effect.

<b>RESULT:</b>	<b>EMERGENCY ORDINANCE NO. 040, 2015 ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Gerry Horak, District 6
<b>SECONDER:</b>	Gino Campana, District 3
<b>AYES:</b>	Weitkunat, Overbeck, Campana, Troxell, Cunniff, Horak
<b>ABSENT:</b>	Poppaw

● **ADJOURNMENT**

The meeting adjourned at 4:24 PM.

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk

