

August 30, 2016

COUNCIL OF THE CITY OF FORT COLLINS, COLORADO

Council-Manager Form of Government

Adjourned Meeting – 6:00 PM

● ROLL CALL

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

Staff present: Atteberry, Daggett, Winkelmann

1. Items Relating to Submitting a Ballot Question for the November 8, 2016 Election (Adopted)

A. *Possible Public Hearing and Motion Regarding Protest of Ballot Language*

B. *Resolution 2016-068 Submitting a Ballot Question to the Registered Electors of the City at a Special Municipal Election to be Held on November 8, 2016, and Conducted as a Coordinated Election with Larimer County, Asking the Voters to Confirm that the City May Retain and Spend All Revenues it has Received and will Continue to Receive Relating to the "Keep Fort Collins Great" .85% Sales and Use Tax Voters Approved in 2010.*

The purpose of this item is to set ballot language for the voters of Fort Collins to confirm that they intended for the City to collect, keep, and spend all revenues collected as authorized and directed in the 2010 "Keep Fort Collins Great" ballot question.

Ballot language is being set at the earliest possible date. Any protest of the proposed ballot language must be received no later than Monday, August 29 at noon. The protest(s) shall be heard, considered, and resolved by Council prior to adoption of Resolution 2016, 068. If protest(s) are received, copies will be included in Council's "Read-before" packet.

City Attorney Daggett reviewed the City Code's process allowing a registered elector the opportunity to protest proposed ballot language. She stated Council is required to hear, consider and resolve the protest prior to adopting the Resolution that would set the ballot language and briefly reviewed the requirements for ballot language.

Eric Sutherland stated Municipal Election Code 31-11-111(3) applies to this ballot question and noted he has the ability to appeal Council's decision to the District Court under a provision of the Uniform Election Code. To illustrate his protest, Mr. Sutherland used an example of a store overcharging for an item and then requiring the customer to sue for a refund. There is no substantive difference in the proposed ballot language between a yes and no vote.

Councilmember Campana noted City Attorney Daggett's presentation indicated CRS 31-11-111(3) does apply. City Attorney Daggett replied Mr. Sutherland was likely objecting to her use of the term "arguably" as there is some question as to whether the language in the City Charter occupies the field in terms of defining the City's ballot requirements; however, the requirements outlined in the presentation do include that statute. The substantive difference between the effect of the statute versus the Charter provision is limited.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Campana, that the Council find the protest filed by Mr. Sutherland has no merit.

Councilmember Campana opposed Mr. Sutherland's protest as being without merit.

Councilmember Stephens noted the tax revenues have supported much-needed services. She asked where citizens could access information as to where the revenues have been spent. City Manager Atteberry replied the annual reports can be found at www.fcgov.com/KFCG. Details regarding how the funds have been spent as well as information regarding efficiency efforts can be found at that web site.

Mayor Pro Tem Horak requested that information be placed on the front page of the web site. City Attorney Daggett replied she will look into that possibility.

Councilmember Martinez asked if the questions and answers will be posted on the web site. City Manager Atteberry replied they are posted as part of Council's agenda. City Attorney Daggett replied information will be evaluated to determine whether it can be relocated on the web site or whether it will need to be left as is.

Councilmember Cunniff stated he would support the motion and support the ballot question in the community.

Councilmember Campana requested City Attorney Daggett provide a memo regarding appropriate action by boards and commissions and employees in terms of the election. City Attorney Daggett replied her staff works with City employees and appointees on those issues. City Manager Atteberry stated he sends an email to all City employees prior to every election regarding their ability to participate as a private citizen without using City resources.

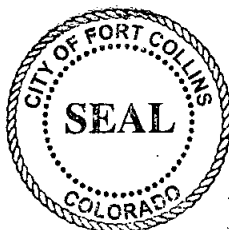
Councilmember Campana asked about participation in terms of elected officials. City Attorney Daggett replied Council can adopt a resolution expressing support for the measure and Councilmembers can individually express their opinions and be actively involved as long as they are careful about the specific limitations in the statute. She stated City staff and Council can respond to questions via email.


Mayor Troxell expressed support for bringing the ballot issue forward.

RESULT:	RESOLUTION 2016-068 ADOPTED [UNANIMOUS]
MOVER:	Ray Martinez, District 2
SECONDER:	Gino Campana, District 3
AYES:	Martinez, Stephens, Overbeck, Campana, Troxell, Cunniff, Horak

● **ADJOURNMENT**

The meeting adjourned at 6:40 PM.




Mayor

ATTEST:


City Clerk