

August 22, 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, Daggett, Coldiron

1. **Items Relating to the Submission of a City-Initiated Ordinance Relating to Medical Marijuana Businesses to a Vote of the Registered Electors of the City at the November 7, 2017, Special Municipal Election. (Adopted)**

A. *Possible Public Hearing and Motions Regarding Protest(s) of Ballot Language.*

B. *Resolution 2017-079 Submitting a City-Initiated Ordinance Dealing with Medical Marijuana Businesses to a Vote of the Registered Electors of the City at the Special Municipal Election to be Held on November 7, 2017, in Conjunction with the Larimer County Coordinated Election.*

*The purpose of this item is to submit a City-Initiated Ordinance to the registered electors of the City at the November 7, 2017 special election. The proposed Ordinance amends Section 15-491 (a) and (b) of Article XVI of the City Code to allow Council to change or add any provisions in Chapter 15, Article XVI in order to stay current with state laws, rules and regulations relating to medical marijuana.*

*Any protest of the proposed ballot language must be received no later than Monday, August 21, 2017, at noon. The protest(s) shall be heard, considered, and resolved by Council prior to adoption of Resolution 2017-079. If protest(s) are received, copies will be included in Council's "Read-before" packet.*

No protest of ballot language was received.

Ginny Sawyer, Policy and Project Manager, discussed the history of medical marijuana in Fort Collins and stated staff is proposing this measure which would ask permission for Council to make changes to the Code that would be consistent with the state. Council would still vote on any potential changes, which could include types of ownership structures, new license types, and off-premise storage facilities. Current license holders have expressed concern this measure would potentially give Council and the City more overreach to change and restrict the citizen-passed regulations; therefore, language has been included indicating the only possible changes would be those within the state code.

Eric Sutherland stated the Code should be authored and amended with respect. He stated codification should be self-sustaining and self-supporting without requiring the reference of other documents. He suggested repeal and reenactment to accomplish this.

Gregg Steinberg stated he has started a company in Fort Collins which produces a product used in medical cannabis cultivation facilities to enhance the growth and quality of their products. He stated his company needs the ability to cultivate for research and development purposes and that is currently very difficult under existing Fort Collins regulations; however, the state has changed regulations to allow such cultivation.

Matthew Wallenstein stated he is one of the co-founders of the aforementioned company and the new state law will allow them to test their product on cannabis plants. He stated it is important to have good science behind medical cannabis.

Councilmember Summers asked if the primary provision to be examined will be related to research and testing. Sawyer replied there are three provisions staff will likely bring forward: the prohibition of transporters, the allowance of medical marijuana research facilities, and the ability to conduct local background checks on new types of ownership interests. She noted each of the items could be placed on a ballot individually; however, this tactic seems more efficient.

Councilmember Martinez asked if Council could still act on prohibiting transporters if voters do not approve this measure. Sawyer replied that it would need to be taken to the voters individually.

Councilmember Martinez asked about the research license. Sawyer replied the license would allow researchers to grow a small amount of marijuana for research purposes and set up parameters wherein that marijuana could not be sold and must be destroyed.

Councilmember Martinez asked Mr. Wallenstein what his company will be researching. Mr. Wallenstein replied the use allowed by the state in which his company is interested is agronomic testing on cannabis to understand the effects of different growth products.

Councilmember Overbeck asked Mr. Steinberg if he anticipates spin-off businesses from his in the community. Mr. Steinberg replied their research applies not only to cannabis, but also to specialty fruits and vegetables and broad-acre crops. He stated their ability to test on the cannabis plant is crucial to increase their research.

Councilmember Overbeck asked how many people they anticipate employing should the measure move forward. Mr. Steinberg replied the company currently employs 40 people, and that will likely triple over the next three years; all of which will remain in this community if given the ability to cultivate cannabis here.

Councilmember Overbeck asked if there would be a limit to the number of research companies allowed in Fort Collins. City Attorney Daggett replied this ballot measure, if adopted, would allow Council to take action and consider whether setting a limit is appropriate.

Councilmember Martinez asked about cannabis contamination. Mr. Wallenstein replied that has been a concern and there is a large market for sustainably-grown, organic crops. He stated his company aims to provide tools which enable growers to provide such crops.

Sawyer stated the State House bill would allow for the following research purposes: testing chemical potency, conducting clinical investigation of marijuana-derived medicinal products, researching the efficacy and safety of administering marijuana as part of medical treatment, and researching marijuana-affiliated products or systems.

Councilmember Martinez asked if this helps or hinders law enforcement. Jim Lenderts, Marijuana Enforcement Officer, replied it helps law enforcement as it continues to allow for local control.

Councilmember Martinez asked if each of the three items discussed by staff could be taken to voters separately or in one question. City Attorney Daggett replied it may be possible to consolidate the provisions into one question.

Councilmember Martinez expressed concern regarding taking rights away from voters regarding each specific issue.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Stephens, to adopt Resolution 2017-079.

Mayor Pro Tem Horak stated this measure asks voters if Council could potentially make changes, which would still need to be addressed by Ordinance and which could potentially be placed before voters at Council direction.

Councilmember Stephens stated the public will still have the opportunity to weigh in on these issues and discussed the importance of being able to weigh in on new license types and other issues as they come up.

Mayor Troxell stated he would support the motion and expressed support for the 2012 initiatives remaining intact.

<b>RESULT:</b>	<b>RESOLUTION 2017-079 ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Gerry Horak, District 6
<b>SECONDER:</b>	Kristin Stephens, District 4
<b>AYES:</b>	Martinez, Stephens, Summers, Overbeck, Troxell, Cunniff, Horak

2. **First Reading of Ordinance No. 105, 2017, Imposing a Moratorium Until December 31, 2017, upon the Acceptance of Applications for the Installation of and/or the Issuance of Right-of-Way Permits for New Antennas, Small Cell Facilities, Towers and Wireless Service facilities by any Third Party in City Rights-of-Way in any Zone District. (Adopted on First Reading)**

*The purpose of this item is to consider a moratorium until December 31, 2017, on the installation of cellular facilities in public rights-of-way. This would allow the City time to draft and implement appropriate regulations on such installations while still complying with HB 17-1193, which expanded the right of companies to utilize the right of way for small cell installations.*

Tyler Marr, Policy and Project Analyst, stated this is a recommended moratorium on small cell installations within the City right-of-way. This has come about as a result of a state bill which grants carriers the ability to attach equipment to existing structures and install stand-alone poles in the right-of-way. Marr noted the small cell facilities can be quite large and stated staff is pursuing Code changes to address aesthetic concerns and establish a process for review. Additionally, staff is working on developing a master lease agreement with the third-party companies which have expressed interest in installing small cell facilities.

Marr stated staff is requesting this moratorium on small cell installations, which would expire at the end of 2017, or as the regulations are adopted, to provide additional time to develop regulations.

Liz Walker, AT&T, stated small cells are an important part of the mechanism to deploy technology to meet the demand for wireless service, which is growing exponentially. She requested AT&T be a part of a collaborative process in developing new regulations.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Summers, to adopt Ordinance No. 105, 2017, on First Reading.

City Attorney Daggett stated this moratorium will automatically terminate December 31, 2017 unless regulations are adopted prior to that.

Councilmember Stephens stated she would support the motion and noted small cell facilities will be valuable to outlying neighborhoods such as Registry Ridge.

<b>RESULT:</b>	<b>ORDINANCE NO. 105, 2017, ADOPTED ON FIRST READING [UNANIMOUS]</b>
<b>MOVER:</b>	Gerry Horak, District 6
<b>SECONDER:</b>	Ken Summers, District 3
<b>AYES:</b>	Martinez, Stephens, Summers, Overbeck, Troxell, Cunniff, Horak

3. **First Reading of Ordinance No. 116, 2017, Amending Chapter 26 of the Code of the City of Fort Collins to Make Various Changes Related to the Raw Water Requirements, to Hereinafter Be Known as the "Water Supply Requirements."** (Adopted on First Reading)

*The purpose of this item is to consider adoption of various changes to the Utilities Raw Water Requirements (RWR). The RWR are a dedication of water rights or cash-in-lieu (CIL) of water rights to ensure that adequate water supply and associated infrastructure are available to serve the water needs of development. The three main changes are decreasing the amount of RWR, increasing the CIL rate and moving to a cash-focused system. These changes will increase development costs in the Utilities water service area, but are necessary for meeting the water needs of that development. Following direction given at the February 14, 2017 City Council work session, staff has conducted additional outreach and addressed City Council questions. This item was presented on July 11, 2017 to the Council Finance Committee, which recommended the item be considered for adoption by the entire City Council.*

Kevin Gertig, Utilities Executive Director, stated staff plans to periodically bring raw water rates and cash in-lieu of rates before Council.

Donnie Dustin, Water Resources Manager, stated Utilities has three water impact fees: raw water requirements, plant investment fees, and tap fees. This item focuses on changes only to the raw water requirements for the Utilities service area. The amount requested is based on the use or type of development with the goal of generating adequate funds or water rights to provide a reliable water supply. Dustin detailed the proposed changes and costs and discussed the public outreach process. He noted the Water Board recommended adoption of the changes. Staff is recommending a delayed implementation to allow developers to finish projects under current costs.

Jeff Johnson, Affordable Housing Board, stated the Board is requesting three changes to the proposal: exempt the increase for cash in-lieu for qualified affordable housing projects, delayed implementation of any increase, and freezing future raw water increases pertaining to affordable housing at the time of the application.

Councilmember Stephens asked if members of the Affordable Housing Board are on the fee working group. Dustin replied in the affirmative.

Councilmember Cunniff expressed concern regarding consciously sacrificing some amount of rate payer return on assets relative to the market value of the assets. Lance Smith, Utilities Strategic Finance Director, replied this is an impact fee; therefore, over-collection cannot occur.

Councilmember Cunniff asked how much fees impact housing affordability in Wellington and Timnath. Carol Webb, Water Resources and Operations Manager, replied Wellington is increasing its water supply requirements to cover the costs of new development.

Councilmember Cunniff stated this is a step in the right direction; however, there may be more that could be done with a better understanding of future capital needs.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Martinez, to adopt Ordinance No. 116, 2017, on First Reading.

Mayor Pro Tem Horak asked why the April implementation date has been selected. City Attorney Daggett replied additional language addressing the issue will be included for Second Reading.

Councilmember Overbeck replied he will not support the motion given his inability to find a Natural Resources Advisory Board memo in his read-before packet. He requested all board and commission input be placed in the same packet in the future.

<b>RESULT:</b>	<b>ORDINANCE NO. 116, 2017, ADOPTED ON FIRST READING [6 TO 1]</b>
<b>MOVER:</b>	Gerry Horak, District 6
<b>SECONDER:</b>	Ray Martinez, District 2
<b>AYES:</b>	Martinez, Stephens, Summers, Troxell, Cunniff, Horak
<b>NAYS:</b>	Overbeck

● **OTHER BUSINESS**

Councilmember Stephens requested and received Council support to direct staff to consider licensing requirements for tobacco retailers.

Mayor Troxell supported Councilmember Stephens and stated he would like to examine licensing requirements for all smoked products.

Councilmember Martinez also expressed support and questioned what is being done with tobacco tax revenue.

Councilmember Summers expressed support and discussed the importance of tobacco education and the role of licensing in that.

Mayor Pro Tem Horak suggested the formation of a memo including options and placement within Council's work plan.

Mayor Pro Tem Horak requested and received Council support for examining the expiration of Keep Fort Collins Great, including the base taxation rate in relation to basic services.

Mayor Pro Tem Horak stated Council received a memo regarding addressing stormwater fees at time of annexation. He requested and received Council support for moving forward with an action plan with the County.

Councilmember Martinez questioned why the prohibition on parking on grass exists only during game days. City Attorney Daggett replied parking on grass is always illegal; however, there is currently a lengthy notice provision prior to citation for a violation. That provision is being changed on stadium event days to allow for immediate citation for this type of violation.

Councilmember Martinez stated he would like that provision to be changed to apply for immediate citation year-round.

Mayor Pro Tem Horak discussed the Broadview Place fire and various violations at the property.


Councilmember Martinez requested an update to the absence policy for boards and commissions and subcommittees.

City Attorney Daggett discussed the extent of the current policy, which does not address subcommittees.

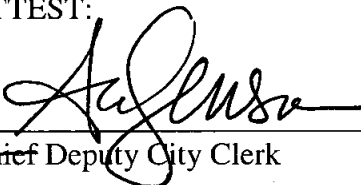
Mayor Troxell asked if Board chairs have discretion regarding effectiveness of members. City Attorney Daggett replied only Council can remove a Boardmember; however, anyone can make a request to the Council liaison or staff member.

• **ADJOURNMENT**

The meeting adjourned at 7:43 PM.

  
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Mayor

ATTEST:

  
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Chief Deputy City Clerk