

AGENDA ITEM SUMMARY

June 16, 2020

City Council

STAFF

Josh Birks, Economic Health Director
John Duval, Legal

SUBJECT

First Reading of Ordinance No. 083, 2020 Imposing a Moratorium Until January 31, 2021, Upon the City's Acceptance and Processing of Applications for Approval of New Service Plans for Metropolitan Districts.

EXECUTIVE SUMMARY

This item meets the following COVID-19 emergency priority for being on the Council agenda:

- Priority 5 - Items that must move forward based on a Council directed timeline.
- Priority 6 - Items that relate to funding, operation and business activities that the City must continue despite the current crisis.

The purpose of this item is for Council to consider a moratorium until January 31, 2021, upon the City's acceptance and processing of new applications for approval of service plans for Metropolitan Districts. This moratorium will apply to the consideration of new Service Plans, but not to the amendment of Metropolitan District Service Plans previously approved by Council or to the consideration of agreements with the City as contemplated in such Service Plans. For example, the moratorium would not apply to Council's consideration of Public Benefit Agreements and Intergovernmental Agreements contemplated in certain existing Service Plans.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading. However, staff is preparing an alternative approach to advancing review and improvement of the existing Metro District policy that could accelerate delivery of revisions making a moratorium less necessary.

BACKGROUND / DISCUSSION

In August of 2018, Council adopted revisions to the City's policy for reviewing service plans of Metropolitan Districts (the "Policy") with further revisions in February of 2019. Council then reviewed and approved the Service Plans for five Metro Districts across the central and northeast sections of Fort Collins. In reviewing and approving these Service Plans, several Councilmembers had questions about the intent, efficacy, and use of Metro Districts to support residential development.

At the June 9, 2020, adjourned Council meeting, Council directed staff to prepare this Ordinance imposing a moratorium upon the City's acceptance and processing of new applications for approval of Service Plans for Metropolitan Districts. Council acknowledged the impacts of the COVID-19 pandemic on the timeline for work to review and improve the Policy. The Economic Health Office ("EHO") has set aside this work to focus on crisis response and economic recovery.

Staff from the Planning, Development and Transportation department ("PDT") working with EHO staff are developing an alternative approach and schedule to reviewing and improving the Policy. Additional details about this approach will be shared in a memo to be sent to Council on Monday, June 15, 2020.

The memo will provide additional information including:

- An overview of the review and engagement process to develop revisions and improvements to the Policy.
- An updated schedule for this work led by PDT staff.

CITY FINANCIAL IMPACTS

No direct financial impact to the City. All costs associated with the review of Metropolitan District Service Plans are covered by fees collected from applicants.

BOARD / COMMISSION RECOMMENDATION

The timing of this request has not allowed for any outreach to Boards and Commissions.

PUBLIC OUTREACH

No public outreach has been completed related to this request due to timing.

ORDINANCE NO. 083, 2020
OF THE CITY COUNCIL OF THE CITY OF FORT COLLINS
IMPOSING A MORATORIUM UNTIL JANUARY 31, 2021, UPON THE CITY'S
ACCEPTANCE AND PROCESSING OF APPLICATIONS FOR APPROVAL OF NEW
SERVICE PLANS FOR METROPOLITAN DISTRICTS

WHEREAS, Colorado's Special District Act, in Title 32 of the Colorado Revised Statutes ("C.R.S."), authorizes the formation of various kinds of quasi-municipal entities to provide certain public improvements and services (the "Act"), including special districts known as "metropolitan districts" ("Metro Districts"); and

WHEREAS, the Act authorizes Metro Districts to be organized to provide for the financing, construction, operation and maintenance of certain public improvements and to provide certain public services; and

WHEREAS, the specific public improvements and services a Metro District can provide are required by the Act to be described and authorized in the District's organizing and governing document, known as the "service plan" (the "Service Plan"); and

WHEREAS, the Service Plan governs the Metro District's organization, powers and operation under the Act; and

WHEREAS, the Act provides in C.R.S. Sections 32-1-204.5 and 32-1-205 that a Metro District cannot be organized and operated within a municipality unless the municipality's governing body has first adopted a resolution approving the Service Plan for the proposed District; and

WHEREAS, in July 2008, the City Council adopted Resolution 2008-069 in which it approved a policy setting forth the various guidelines, requirements, criteria and fees for the City's consideration of the Service-Plan applications submitted to it (the "2008 Policy"); and

WHEREAS, on February 5, 2019, City Council adopted Resolution 2019-016 approving the "City of Fort Collins Revised Policy for Reviewing Service Plans for Metropolitan Districts" setting forth revised guidelines, requirements, criteria and fees applicable to the City's consideration of Service-Plan applications to replace and supersede those in the 2008 Policy (the "2019 Policy"); and

WHEREAS, since the City Council's adoption of the 2019 Policy, there have been media reports and citizen input raising concerns and questions about various taxation, debt, financial, legal and governance problems with those Metro Districts that have been organized within Colorado's municipalities; and

WHEREAS, based on these reports and input, the City Council is concerned that the current 2019 Policy may not be in the best interests of the City and its residents and so may need to be further revised to address these problems; and

WHEREAS, the City Council therefore directs the City Manager to have his staff investigate, research and seek public input regarding these problems, and any other problems they may identify, to develop and present to the City Council for its consideration, revisions to the 2019 Policy to ensure that future Service Plans approved by the City Council and Metro Districts organized within the City are in the best interests of the City and its residents; and

WHEREAS, in order to give City staff a reasonable period of time to investigate, research, gather public input and develop any recommended revisions to the 2019 Policy for City Council's consideration, the City Council hereby finds and determines that it is in the best interests of the City and its residents, and necessary for the public's health, safety and welfare, to impose a moratorium on the City's acceptance and processing of new Service-Plan applications under the 2019 Policy and the Act as hereafter provided, but this moratorium is not intended to apply to applications for amendments to Service Plans previously approved by City Council or to agreements with the City as contemplated under previously approved Service Plans; and

WHEREAS, the City's power to impose this moratorium is among its home rule powers granted to it in Article XX of the Colorado Constitution.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That a moratorium is hereby imposed on the City's acceptance and processing of new Service-Plan applications under the 2019 Policy and the Act (the "Moratorium"). The Moratorium is not intended to apply to applications for amendments to Service Plans previously approved by City Council or to agreements with the City as contemplated under previously approved Service Plans.

Section 3. That the Moratorium shall go into effect as the effective date of this Ordinance and shall terminate upon the earlier of the adoption by Council of an update to the 2019 Policy or January 31, 2021, unless sooner terminated by the City Council by resolution or ordinance.

Introduced, considered favorably on first reading, and ordered published this 16th day of June, A.D. 2020, and to be presented for final passage on the 21st day of July, A.D. 2020.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 21st day of July, A.D. 2020.

Mayor

ATTEST:

City Clerk