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Legislative Review Committee

Meeting Notes

March 6, 2012, 4:00 p.m.

City Manager's Conference Room

Present: Kelly Ohlson, Mayor Pro Tem; Lisa Poppaw, Councilmember; Wendy Williams, Assistant City Manager; Steve Roy, City Attorney; Dan Weinheimer, Legislative Policy Manager

Absent: Wade Troxell, Councilmember; Darin Atteberry, City Manager

Guests: none

Mayor Pro Tem Ohlson called the meeting to order at 4:11 pm.

Adoption of the minutes from the February 14th meeting were moved for approval by Councilmember Poppaw and seconded by Mayor Pro Tem Ohlson. Minutes were adopted without amendment.

Dan Weinheimer ran through the bills with existing positions on them, noting that many of these bills had already died in committee.

Dan then brought new bills for LRC consideration. Bills considered included HB12-1005 which concerns flexibility of investments for municipalities and would provide additional flexibility necessary to invest in securities that carry a "AAA" rating from at least two of the major credit rating agencies – instead of all three. This change would allow cities to invest in federal securities given the recent downgrade of federal debt by one of the major credit agencies. Dan noted that this bill is on a fast track for signature due to a recent newspaper article. Steve Roy noted that this bill would not impact the City of Fort Collins' investment policy as home rule cities are able to adopt their own policies. No position was adopted.

HB12-1014 which would alter the late fees owed for late vehicle registration from a maximum of \$100 to a maximum of \$20 was discussed and LRC adopted an oppose position citing the need to fund roads and transportation infrastructure.

HB12-1029 would afford municipalities the ability to offer a Business Personal Property Tax (BPPT) exemption of up to 100 percent of BBPT and for a period of up to 10 years. Mayor Pro Tem Ohlson questioned why the City would support this and noted that Council does not approve of tax breaks or incentives for economic development. Steve Roy noted that perhaps this bill could have

TABOR implications and that further review was needed. No position was adopted.

HB12-1034 concerns ending abuses of the Waste Tire Processor End User Fund. This issue is listed as a top legislative priority for 2012 and Dan noted the bill has support from staff. LRC adopted a support position.

HB12-1037 would classify some agricultural products as wholesale and therefore prevent tax collection on them. Dan noted that this bill specifically calls out pesticides as wholesale and both Mayor Pro Tem Ohlson and Councilmember Poppaw stated their strong opposition to the bill. LRC adopted an oppose position.

HB12-1066 would allow ATVs and snow mobiles on city streets for cities smaller than 5,000 population and allow cities like Fort Collins to opt-in to allowing their use on municipal streets. Dan stated that there is a public safety concern and also that the bill is unlikely to pass out of its current committee assignment. LRC adopted an oppose position to this bill.

HB12-1078 would exempt drinking water treatment facilities from a certificate of designation (CD) for processing and disposing of solid wastes generated by the facility on their own property. Dan noted that this bill has support from Utilities staff and could save the City costs related to the CD – application fees, public notice, staff hours and more. Both Councilmember Poppaw and Mayor Pro Tem Ohlson noted that they know that City of Fort Collins staff operates facilities properly but that they are concerned with other operators statewide and releasing them from responsibilities to steward the environment or operate appropriately. No position was adopted by the LRC on this bill.

HB12-1103 would exclude clean counties from enhanced emission areas and goes against the Policy Agenda. Dan noted that staff opposes this bill and LRC adopted an oppose position.

HB12-1122 is a bill that died in committee but would have banned medication disposal in water. Dan stated that this bill was brought up at LRC for informational purposes because it concerns a take-back program that currently would align with Fort Collins values and to consider including this sort of program in the 2013 LRC Policy Agenda.

HB12-1136 seeks to prevent municipalities from using public land for retail sales. The bill is problematic for Fort Collins in that it would preclude the City from operating concession stands at parks and could prevent CSU from operating concession stands or convenience stores on campus. Steve Roy also noted that this bill could have impacts for the City with regards to electric vehicle charging should that eventually be pursued. LRC adopted an oppose position.

HB12-1154 and SB12-143 are both economic development bills related to the Colorado Office of Economic Development and International Trade (OEDIT). They relate to aspects of the Colorado Blueprint that is being developed to enhance the business climate throughout the state by generating information and building partnerships between regions and industry sectors. It was noted that this process could enhance local businesses long-term. LRC took no position on these bills at this time noting that Fort Collins' active support might not be needed for their passage.

HB12-1224 would create a consolidated statewide digital trunk radio system and an authority to manage it. Councilmember Poppaw expressed concern about losing authority over local operations through creation of this authority. Dan Weinheimer noted that both Fort Collins Police Department and Poudre Fire Authority are supportive of the bill and development of a communication authority. LRC took no position on the bill pending further examination concerning whether there would be a negative impact locally.

HB12-1232 would provide municipalities a safeguard against covering the costs of self-inflicted wounds sustained by persons in custody or in a municipal jail. Dan explained that this bill is in reaction to a dispute in Larimer County concerning the costs stemming from an individual's leap from a moving police vehicle. Councilmember Poppaw stated that she is concerned that someone would still have to cover these medical costs and it likely would be a governmental entity given that many people in custody do not have medical insurance. Mayor Pro Tem Ohlson concurred that this bill is problematic for the same reasons. LRC took no position on the bill.

SB12-118 would repeal the 25 percent food threshold for a hotel/restaurant liquor license. This provision requires that at least 25 percent of the gross receipts of a restaurant or hotel serving liquor must be derived from food. Steve Roy stated that he is concerned about this bill and specifically wanted more discussion of its impact on Old Town Fort Collins in light of the number of restaurants and taverns located in that area and the fact that residents have weighed in on their desired mix of those establishments. Dan stated that he'd had discussions with CML and the Colorado Restaurant Association on this bill and CML had brought forward an amendment to retain the threshold of 25 percent but to place a 12-month timeframe of the requirement for auditing purposes. Steve expressed concern that the amendment does not go far enough to assuage Fort Collins' concerns because the definition of a meal is still not defined and there is significant room to interpret what that "food" means. Both Mayor Pro Tem Ohlson and Councilmember Poppaw agreed that it is troubling to consider changes to the character of Old Town based on a licensing change – the 25 percent requirement is one of the only ways to differentiate between a restaurant and a tavern. Dan added that the research of the bill indicated that many of the Restaurant

Association's members might be negatively impacted in removing the 25 percent threshold due to the higher cost of insurance for being a tavern. Despite the amendment and due to continuing concern the LRC adopted an oppose position on this bill.

SB12-070 is the Uniform Residential Landlord and Tenant Act and would place many rules on the use of the state's rental housing stock. Noting that Fort Collins is a landlord, Dan expressed that staff has some concerns on this bill relative to restrictions on the retention of and the amount allowable for damage deposits. The bill would restrict the timeframe for a damage deposit to be held at separation from a rental to 30 days and staff feels that this could be problematic in remediating damage in sufficient time. Councilmember Poppaw stated her concern that we should not act against renters who may really need that damage deposit to move on with their lives. Mayor Pro Tem Ohlson expressed similar concern that the City's position should be to balance the needs of renters and landlords. LRC took no position on the bill at this time pending more analysis of the bill and the severity of impacts to Fort Collins.

HB12-1258 concerns alternative fuel vehicle charging facilities and while encouraging the development of charging infrastructure it precludes any regulation of electric vehicles by any regulatory agency. This restriction is troubling as it would require Fort Collins to give up regulating a land use within the community. Dan recommended that LRC could direct staff to work on striking that provision and otherwise could support the bill. LRC adopted an oppose unless amended position on this bill specifically seeking to remove the limitation on regulating electric vehicles chargers.

HB12-1280 would allow the installation of a limited number of video lottery terminals (VLTs) throughout the state. Dan noted that the machines are essentially slot machines and that they have an impact to the community, though the bill allows the City to adopt video lottery impact fees of up to \$5 million. Mayor Pro Tem Ohlson remarked that he opposes the slot machines and the use of gambling to fund government operations. LRC voted to oppose this bill.

HB12-1285 concerns the intergovernmental agreements and cooperation needed for wildland fire mitigation. Many cities own land outside their territorial borders; the concern is that the counties where that land is located need to have support in mitigating wildland fires. In 2009 a law was created requiring that by July 1, 2012 cities would need to enter into intergovernmental agreements (IGAs) with the respective counties for the purposes of fire protection. This bill would provide that instead of entering several parallel agreements with counties that cities with interests in many counties could instead enter an IGA with the Colorado Forest Service – one agreement. Dan mentioned that to his knowledge Fort Collins does not have the needed agreements in place. This bill could simplify matters and



reduce staff workload. LRC sought additional information about the bill and no position was adopted.

HB12-1309 is the mandatory e-verify act and would establish a requirement for all businesses and cities throughout the state to utilize e-verify for screening potential hires. Mayor Pro Tem Ohlson noted that he had been told that Fort Collins already uses the e-verify system for all hiring and contractors though he also expressed doubt that it was being utilized. He noted that he had supported use of e-verify. LRC took no position at this time pending more analysis of current operational practices.

Finally, Dan mentioned that there is not yet a bill to be reviewed but that there has been a draft Urban Renewal Authority (URA) transparency bill circulated through the Capitol. He described the bill draft as less about transparency and more about adding additional regulation on URAs and the use of Tax Increment Financing that is not in line with the legislative intent of URAs. He stated there is some doubt whether the bill would actually be introduced but that for informational purposes he wanted to brief LRC.

Mayor Pro Tem made clear his desire for additional staff input on bills and for more information about the bill status and voting record. Councilmember Poppaw agreed with the need for additional information and noted that the formatting of the bill reports could be improved for reader recognition of important details. Councilmember Poppaw also expressed the need for staff feedback on both the citywide impact as well as impact of bills on other municipalities statewide. Dan Weinheimer stated that he will work with the State Bill Colorado program to better generate reports, will reach out to Tess Heffernan and learn about the way that she generated reports, will reach out to staff and actively cultivate feedback on bills of interest. Steve Roy also noted that because the legislative tracking process seems to evolve each year that he and Dan would develop a better working relationship whereby previewing bills and getting better feedback to LRC members.

The meeting was adjourned 5:24 pm.