

**Federal, State and Intergovernmental Relations (FSIR)
Meeting
March 22, 2019
1:30 PM ♦ Mt. Elbert**

**Council Member Charlie Richardson, Chair
Council Member Marsha Berzins, Vice Chair
Council Member Crystal Murillo, Member**

Serve as leaders and partner with other governments and jurisdictions

1. Approval of January 24, 2019 Minutes Richardson
2. Consent Items (none)
3. State Legislative Session Bill Review LaCrue
4. Miscellaneous Matters for Consideration
5. Set/Confirm Next Meeting Richardson

Next meeting – April 12, 2019

Federal, State and Intergovernmental Relations (FSIR) Meeting
March 8, 2019

Members Present: Council Member Charlie Richardson, Chair; Council Member Marsha Berzins, Vice-Chair; Council Member Crystal Murillo, Member

Others Present: Roberto Venegas, Michael Crews, Matthew La Crue, Abby Fitch, Nancy Rodgers, Natasha Campbell, Kathy Kitzmann, Marshall Brown, Council Member Gruber, Council Member Johnston, Community Members; see attached list.

1. APPROVAL OF MINUTES FROM FEBRUARY 22, 2019 MEETING

The minutes were approved as written.

2. CONSENT ITEMS: None

3. Oil & Gas Application Process Revisions

Summary of Issue and Discussion: Committee Chair, Charlie Richardson introduced the committee members and greeted the visitors attending the meeting. The meeting room was full to capacity and several more people were trying to get in. CM Richardson decided to move the meeting to the Council Chambers due to the large amount of people in attendance. CM Richardson then addressed the audience and went over the rules and procedures for the committee. CM Richardson asked for a show of hands from the attendees who are opposed to the moratorium. An overwhelming majority of the attendees raised their hands. He then asked for a show of hands from those who support a moratorium. A few attendees expressed support for the moratorium.

Mathew La Crue, contract state lobbyist, gave an update on SB19-181, Protect Public Welfare Oil and Gas Operations. The bill was introduced on March 1, 2019 and scheduled for the Senate Transportation & Energy on March 5th. It passed out of committee and was then referred to the Senate Finance Committee on Friday, March 7th. It passed Finance and was sent to Appropriations Committee on March 8th. That committee moved the bill forward to the full Senate, where it will be heard the week of March 11th. This bill enhances local governments' ability to regulate surface impacts of oil and gas development and will impact several city departments. All amendments to the bill have been forwarded to City staff for review. CM Richardson asked if the Committee members had any questions for M. La Crue. CM Murillo and CM Berzins had no questions.

CM Richardson asked if staff is recommending an amendment to the bill. Roberto Venegas, Assistant City Manager, said that staff will defer to the Committee on questions concerning the existing bill. Staff can answer questions regarding how the licensing process will be impacted if the bill should pass, but it is up to Council to decide how they want to respond to the bill.

CM Richardson asked that the proposed amendment be added to the agenda item back up for the Council meeting. CM Richardson asked when staff will be ready to bring this item to Council. R. Venegas said this item is on the agenda for the Study Session on March 18, 2019. There will be discussion on the proposed ordinance as well as the trajectory of the bill. CM Richardson then detailed the rules and procedures for Study Session for the benefit of the audience.

CM Nicole Johnston gave an overview of a proposed ordinance regarding a moratorium on oil and gas drilling permits. The ordinance proposes a moratorium of temporary and reasonable duration on acceptance or approval of oil and gas permit applications within the city, in order to implement anticipated broader local authorities related to oil and gas development and to better reflect modern oil and gas operational characteristics and best management practices to mitigate potential impacts to public health and environment. The main purpose for the moratorium is to allow the city time to establish operator agreements between oil and gas operators and the city for future well sites. CM Johnston said the ordinance is on the agenda for the March 18th Study Session and she is prepared to bring it to the floor at the March 18th Council Meeting.

CM Richardson asked Vice Chair Berzins for any comments. CM Berzins said that 10 more people had entered the room since the beginning of the committee meeting. CM Berzins asked CM Johnston if Aurora shuts wells down for 6 months, what would be the loss to our schools. And how would they make up that lost money? CM Johnston answered that she would not characterize this ordinance as shutting down wells. If there is an operator agreement the well will not be shut down. As for the funding for the schools she has reached out to Aurora Public Schools (APS) superintendent. CM Johnston indicated that the severance tax that oil and gas companies pay is one of the lowest in the country and the taxes do not go directly to the schools. It goes through a state fund and she will find out how the monies are allocated. CM Berzins asked if CM Johnston had any numbers on how many people would be laid off because of the moratorium. CM Johnston said she will provide that information at the Study Session. But when she looked at the top 500 employers in Aurora, there were no oil and gas companies listed in the top 20. CM Berzins said that the Aurora Chamber had an emergency meeting to vote on SB19-181 and the results were 19 against and 1 for. CM Murillo asked if there is a list of the companies the Aurora Chamber board of directors represent. She said it is important for transparency to know who is showing up to these meetings. CM Richardson asked Aurora Chamber president, Kevin Hougen to clarify who was at the meeting. K. Hougen said that the Vice President of Children's Hospital and University Hospital. The only person who voted to support the bill was Arapahoe County Commissioner Nancy Jackson.

CM Richardson asked if CM Gruber had any comments. CM Gruber said the fact is we need oil and right now we are buying oil from countries that hate us. It would be better if we could produce our own oil and not be dependent on other countries. The oil produced here in Colorado is more environmentally sustainable than oil produced in other countries and the oil business has stimulated the local economy. He also said Coloradans voted against setbacks and to now legislate new laws is not what the people want. CM Gruber went on to say that he does not support moving forward with any type of delay and we should continue doing business, as we have been, in good faith with the oil and gas companies.

CM Johnston said that she appreciated everyone for being at the meeting. She looks forward to the 18th and having a robust discussion on the issue.

CM Murillo thanked CM Johnston for bringing this issue forward. It is always in the people's best interest to have open discussions on issues such as this. CM Murillo said the city has used the moratorium tool successfully regarding a mobile home park. It allowed the city to time to gather information in order to make the best decisions for its constituents.

CM Richardson called a recess so the people attending could leave if they wanted to.

Outcome: Moratorium ordinance to go to Study Session on March 18, 2019.

Follow-up Action: Staff will put the ordinance on the agenda for Study Session on March 18.

4. **Aurora Water, State & Federal Legislative Update**

Summary of Issue and Discussion: Marshall Brown, Director of Aurora Water and Kathy Kitzmann, Senior Water Resources Engineer gave a brief update on the Congressional request for Forest Service assistance with a potential wilderness adjustment. M. Brown said the Aurora Water staff is not comfortable with some of the language of the CORE Act. The proposed boundaries would have some impact on planned water development projects. Staff is asking the Committee to approve a letter request being sent to the Aurora delegation to ask their aid in requesting the Forest Service to provide assistance in drafting a potential new Holy Cross Wilderness boundary. The Committee unanimously agreed to support the letter.

Staff is also asking if the Committee will approve of opposing the CORE Act and any similar bills without inclusion of a Holy Cross Wilderness boundary adjustment that benefits ERMOU project development. K. Kitzmann also asked for permission to write a letter to Senators Gardner and Bennet to see if they would help support an amendment. The Committee agreed to have that letter sent.

5. **MISCELLANEOUS MATTERS FOR CONSIDERATION**

R. Venegas said the Family Medical Leave bill, Construction Defects bill, Minimum Wage act and 150 more bills are still to come. Some of these will need to be addressed soon. There is a late bill being considered regarding Mobile Home Park Act enforcement. It could address many of the same issues the city is facing with the Denver Meadows mobile park project.

CM Richardson asked if the Committee would be willing to meet every week due to the amount and the speed of the bills going through legislature at this time. Both CM Murillo and CM Berzins declined to meet weekly and decided to keep the schedule as is.

6. **CONFIRM NEXT MEETING**

The next meeting is scheduled for March 22, 2019, 1:30 PM in the Mt. Elbert conference room.

Approved:

Charlie Richardson Date
Committee Chair



Federal, State and Intergovernmental Relations Agenda Item Commentary

Item Title: State Legislative Session bill review
Item Initiator: Michael Crews, Intergovernmental Relations Coordinator
Staff Source: Michael Crews, Intergovernmental Relations Coordinator
Deputy City Manager Signature:
Outside Speaker: Matt La Crue, Dentons
Council Goal: 2.1: Work with appointed and elected representatives to ensure Aurora's interests--2012: 2.1--Work with appointed and elected representatives to ensure Aurora's interest

ACTIONS(S) PROPOSED *(Check all appropriate actions)*

- Approve Item and Move Forward to Study Session
- Approve Item and Move Forward to Regular Meeting
- Information Only

HISTORY *(Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)*

Dentons has served as the city's state lobbyist since January of 2017. They regularly provided updates to the FSIR committee, including reviewing state legislative activity and recommending positions as appropriate.

ITEM SUMMARY *(Brief description of item, discussion, key points, recommendations, etc.)*

City staff is not currently requesting active support or oppose positions on legislation. The attached memo contains updates on legislation the committee has previously reviewed in addition to an informational item.

QUESTIONS FOR Committee

EXHIBITS ATTACHED:

UPDATED FSIR Leg 3.22.19.docx

MEMORANDUM

TO: FSIR
FROM: MICHAEL CREWS, INTERGOVERNMENTAL RELATIONS
COORDINATOR
SUBJECT: STATE LEGISLATION UPDATE
DATE: 3/15/2019

Informational Item

Radio Communications: HB19-1235 Limit Encryption of Dispatch Radio Communications would require governmental entities to broadcast its dispatch radio communications without encryption such that the communications may be monitored by commercially available radio receivers and scanners or online. Exceptions include all tactical radio communications or investigative radio communications so long as the encryption is necessary to preserve the tactical integrity of an operation, protect the safety of law enforcement officers or other emergency responders, or prevent the destruction of property. Or an investigative unit of a governmental entity engaged in the investigation of criminal conduct or potential criminal conduct may encrypt its radio communications.

Currently, APD radio channels are encrypted. This is an effort to ensure the safety of employees by restricting suspects' ability to monitor radio channels while officers are responding to or investigating crimes. Prior to encryption, it was not uncommon to encounter this behavior. Additionally, there is a significant cost to removal encryption already in place.

The bill currently has a sole sponsor Republican Representative Kevin Van Winkle and has been assigned to House Transportation & Local Government Committee. It is not likely the bill will be passed out of committee.

FSIR Active Support Update

Nicotine Taxation: HB19-1033 Local Governments May Regulate Nicotine Products would enable local governments to impose an additional sales tax on nicotine products. Under the current statute in order to participate in the revenue share back provided by the state sales tax on nicotine products local governments are prohibited from enacting their own sales tax on such products. This bill would allow local governments to continue to receive state revenue share back and levy an additional sales tax on nicotine products. The bill would allow the city to collect sales tax twice on the sale of nicotine products.

The bill has been passed by both chambers and is headed to the Governor's Office.

Electrical Inspections: HB19-1035 Remove Fee Cap Electrical Inspection Local Government Higher Education would enable local governments to charge more than 15% over what the state

charges to perform an electrical inspection. Under the current statute, local governments are prohibited from charging more than 15% of what the state charges to perform an electrical inspection. The bill would allow the city to set and charge a higher fee for electrical inspections performed by the building department.

The bill is scheduled to be heard by the the Senate Local Government Committee on March 14th.

FSIR Active Oppose Update

Legalizing Minors' Businesses: SB19-103 Legalizing Minors' Businesses would prohibit a municipality from requiring a license or permit for a business that is operated on an occasional basis (not in operation for more than 84 days in a calendar year) by a minor and is located a sufficient distance from a commercial entity as determined by the municipality to prevent the minor's business from becoming a direct economic competitor of the commercial entity.

The primary concern is that the bill would preempt the city's home rule authority. Under the city's current requirements a minor's lemonade stand would not be considered to meet the definition of engaged in business and would not need a license. Additionally, the bill allows for an unlicensed business operation for up to 84 days per year anywhere in the city as long as the owner is identified as a minor. The bill should include additional language or a revenue limitation to ensure that the intent is followed.

The bill has been passed by both chambers and is headed to the Governor's Office.

Plumbing Inspections: HB19-1086 Plumbing Inspections Ensure Compliance would require plumbing inspections to be performed only by state-licensed plumbers. Under current law, only plumbing inspectors employed by qualified state institutions of higher education are required to have the same qualifications as state plumbing inspectors. The bill would expand that requirement to plumbing inspectors employed by a municipality.

The bill would have a significant negative impact on plumbing inspections carried out by the city. Currently, the city has 3 licensed plumbers on staff and 18 plumbers that are ICC certified.

The bill has been assigned to the Senate Business, Labor & Technology Committee.

Clean Indoor Air Act: HB19-1076 Clean Indoor Air Act Add E-cigarettes Remove Exceptions would be an update to the Colorado Clean Indoor Air Act. The update would include the following: Eliminating the existing exceptions for certain places of business in which smoking may be permitted, such as airport smoking concessions, businesses with 3 or fewer employees, designated smoking rooms in hotels, and designated smoking areas in assisted living facilities; and Adding a definition of "electronic smoking device" (ESD) to include e-cigarettes and similar devices within the scope of the act.

The bill scheduled for House second reading of bills on March 15th.

FSIR Monitor Update

Mobile Devices: SB19-012 Use of Electronic Devices while Driving would establish penalties for individuals using electronic devices while operating a motor vehicle.

The committee's monitor position is due to concerns raised by Aurora Water regarding the impact the bill will have on two-way radio usage. Aurora Water's lobbyist Colorado Advocates is working with Sen. Court on an amendment to the bill. The amendment is expected to be introduced on March 14th during Senate Floor Work.

Plastic Straws: HB19-1143 Distribute Plastic Straws Only Upon Request would prohibit a restaurant, food vendor, or other food service establishment from providing a single-use plastic beverage straw to a customer unless the customer requests a straw.

The bill was postponed indefinitely by the House Energy & Environment Committee on February 25th.

Equal Pay for Equal Work Act: SB19-085 concerns the creation of the "Equal Pay for Equal Work Act in order to implement measures to prevent pay disparities.

The bill was referred to the Senate Appropriations Committee after passing the Senate Judiciary Committee on January 20th.

Improper Guilty Pleas: SB19-030 Remediating Improper Guilty Pleas would address that in some instances when criminal defendants entered a guilty plea in connection to a deferred judgment they were not advised that there may be additional penalties that attach to the plea even if the plea is later withdrawn and the case is dismissed. These defendants did not knowingly, intelligently, and voluntarily enter the plea of guilty as required by law. The bill authorizes these persons to petition the court for an order vacating the guilty plea. The bill will have an impact on municipal courts in that it will add requirements currently not supported by Supreme Court case law. The language of the proposed bill is broad and unclear.

The bill has been referred to the Senate Appropriations Committee.