

Federal, State and Intergovernmental Relations (FSIR) Meeting
February 21, 2020

Members Present: Council Member Angela Lawson, Chair; Council Member Allison Hiltz, Vice-Chair; Council Member Crystal Murillo, Member

Others Present: Renee Mosley, Roberto Venegas, Nancy Rodgers, Natasha Campbell, Cammie Grant, Peggi O'Keefe, Luke Palmisano, Terry Brown, Jep Seman, Dave Lathers, Scott Newman

1. **APPROVAL OF MINUTES:** January 24, 2020 minutes were approved as written.
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2. **CONSENT ITEMS:** None.
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3. **Welcome and Introductions:**

Summary of Issue and Discussion: Chair CM Angela Lawson welcomed the committee.

Outcome: Information only.

Follow-up Action: None.

4. **FEDERAL LEGISLATIVE UPDATE**

Summary of Issue and Discussion: Laurie Hettinger, Holland & Knight Federal Lobbyist, called in with the federal update.

The President introduced his budget last week. This is largely ignored by congress. It is also the start of funding season for appropriations. Lawmakers will be looking for feedback from their constituents. L. Hettinger will be putting together requests on behalf of the city. She spoke to Aurora Water and will be putting some request together for them as well.

CM Lawson asked about the status of the rulemaking for Opportunity Zones. L. Hettinger said the rules were released late and it is several thousand pages long. She will share the summery via email. A more comprehensive memo should be ready shortly.

5. **STATE LEGISLATIVE UPDATE**

Summary of Issue and Discussion: Luke Palmisano, Intergovernmental Relations Manager, gave an overview of the following bills.

Basic Life Functions in Public Spaces: HB20-1233

The bill would prohibit the city from restricting any person from conducting basic life functions in a public space unless the government entity can offer alternative adequate shelter to the person and the person denies the alternative adequate shelter; and from occupying a motor vehicle, provided that the motor vehicle is legally parked on public property or parked on private property with the permission of the property owner. The bill will be heard by the House Transportation and Local Government Committee on February 26th. City Staff recommend an active oppose position. This bill violates several city code sections that govern use of public right of way, use of public parks, definition of dwelling units. "Public space" and "alternative adequate shelter" are not defined which will mean litigation to define those terms.

CM Murillo asked for some elaboration as to why staff is opposing this bill. L. Palmisano said it would have consequences for the right of way, for parks, even Aurora Water is opposed to this bill. It would allow anyone who is conducting basic life functions in public spaces to stay there unless a government entity offers them adequate shelter. There is no definition to what "adequate shelter" means. There are several city codes that this would violate. P. O'Keefe said that over the past few years when a bill like this has been introduced it has not gotten very far. CM Murillo asked if the bill in its current form has been introduced before. To her knowledge the right to rest bills that were introduced before were substantially different. Nancy Rodgers, Deputy City Attorney, said there is currently a case in front of the 9th Circuit court regarding adequate housing that has triggered this bill. It says you have to allow people to perform basic life functions if you are not providing adequate housing. It is still on appeal. CM Murillo said she agrees that one should not criminalize folks for trying to survive. In concept she has supported right to rest type bills, but this is imposing a solution on a city that doesn't fit the resources and doesn't offer any resources. Currently the city's strategy is ward based. Each Ward has its own set of concerns and this would not work for the city as a whole. CM Murillo asked if there would be any point to oppose until amended. N. Rodgers said that the way this bill is written it would put undue burden on the city. There are too many risks to even amend the bill. CM Murillo agreed to actively oppose the bill, CM Lawson and CM Hiltz agreed.

Radio Communications Policies of Gov Entities: HB20-1282

The bill requires each entity of the government of each city that encrypts all of its radio communications to enact an encryption policy. The bill will be heard by the House Transportation and Local Government Committee on March 4th. City staff is seeking approval to pursue changes through the bill sponsor.

This bill would require APD and other departments with encrypted radios to provide access to encrypted radio communications to members of the media. The definition of "unreasonable and burdensome limitations" is not defined and will likely lead to many legal challenges. There are security and privacy concerns that necessitate encrypted communications.

CM Hiltz said she struggles with this bill since she sees both sides of it very clearly. How do we define "media"? It is good to have a policy, but this may not be the way to do it. As she understands it there have been instances where there have been fatalities as a result of media staging at events. On the other side, how do you balance that with a victim's right to privacy. There are a lot of questions even if the intent is to have more transparency in terms in how police

engage with the media and the information provided. There are some valid concerns around the CORA process. But this bill doesn't seem to be the way to fix that problem without having some unintended consequences. CM Hiltz supports pursuing changes to the bill through bill sponsor. Terry Brown, Division Chief, agreed to what CM Hiltz touched on, but there is also the concern about juveniles. There are also other safety concerns for first responders when information is accessed by the public. Another concern would be HIPAA violations. N. Rodgers said AFR currently is able to share medical information but this bill would change all that. L. Palmisano said they would like to work with the bill sponsor to define what "media" might be and tighten up some of the other definitions. CML is working on this and the city will coordinate with them to pursue some changes. CM Hiltz asked if changes could be made that would make this palatable? Even if "media" is defined it does not mitigate any of the concerns regarding, juveniles, HIPAA or victim's rights. CM Lawson agreed just defining "media" still leaves these other issues. CM Lawson said she would oppose this bill. CM Murillo asked why staff asked to amend the bill instead of actively opposing it. L. Palmisano said they wanted to see how far CML would get. They were hopeful to get some changes. CM Lawson said at last week's meeting CML did not seem hopeful that they would be able to get any changes. CM Murillo agreed to actively oppose the bill. CM Hiltz asked if they can actively oppose and if there are some significant changes made can they bring the bill back for discussion. L. Palmisano said yes, he will keep the committee updated on any changes. The committee agreed to actively oppose the bill. CM Lawson asked if APD was ok with that. T. Brown said yes APD is ok with opposing the bill.

Colorado Rights Act: HB20-1287

Concerning enforcement of Colorado constitutional rights in Colorado state courts. The bill allows a person who has a right, privilege, or immunity secured by the Colorado constitution that is infringed upon to bring a civil action for the violation. The bill will be heard by the House Judiciary Committee on March 5th. City staff recommend an active oppose position. The bill will remove qualified immunity for local government officials and have a significant financial impact.

Renee Pettinato Mosley, Risk Manager, said this bill would put an undue burden on the city. The city would be cutting checks for every little perceived grievance if a person chooses to sue. The committee agreed unanimously to actively oppose this bill.

This bill updates the guidelines surrounding arbitration of construction defects lawsuits. The bill passed second reading on the Senate floor on February 7th. City staff recommend an active oppose position.

Consumer and Employee Dispute Resolution Fairness: SB20-093

This bill could make arbitration more difficult which could prolong judgement in construction defects lawsuits and stunt for sale condo construction.

CML has taken a position of monitor with amendments. There was a proposed amendment by some members of the policy committee. CM Lawson agreed with a proposed amendment that was suggested. She agreed to actively not oppose the bill until CML staff looked into the proposed amendment. She agrees with that position and did not agree with CML to actively oppose the bill

because the proposed amendment seemed reasonable. CM Lawson did not take an active oppose to this bill. CM Murillo said she usually sides with the consumer protection side of the issue. But she respects the other side's argument that it hinders construction of certain types of housing. Would taking this position weaken, strengthen or be neutral to consumer protections? CM Lawson asked staff to get the notes from CML on what the proposed amendments are and share those with CM Hiltz and CM Murillo. CM Murillo said she would like more information before taking a position. L. Palmisano said we can hold off on taking a position for 2 weeks to get more information and then bring it back to the committee. Notes from the CML meeting regarding the proposed amendment were not available.

Consumer Protection Construction Defect Time Period: SB20-138

This is a companion bill to SB20-093 and increases the statutory limitation period for construction defects lawsuits. The bill passed through the Senate Judiciary Committee on February 12th. City staff recommend an active oppose position.

This bill will increase the statutory limitation period for actions based on construction defects from 6 to 10 years which could prolong judgement in construction defects lawsuits and stunt for sale condo construction.

CM Lawson agreed to actively oppose. CM Murillo asked for more information on this bill before taking a position.

Sunset Water Wastewater Facility Operators Certification Board: HB20-1215

This bill concerns the continuation of the water and wastewater facility operators certification board, and, in connection therewith, implementing the recommendations contained in the 2019 sunset report by the department of regulatory agencies. The bill passed the House Committee on Energy & Environment on February 13th and will be heard by the House Appropriations Committee on February 21st. City staff is seeking approval to pursue changes through the bill sponsor.

Changes in language could negatively impact Aurora Water because they have many projects that last shorter than one year and would require extra certifications, time, and costs for these short-term efforts, such as construction dewatering projects.

The committee unanimously agreed to pursue changes through the bill sponsor.

L. Palmisano gave an informational update on the following bills.

Limit Mobile Electronic Devices While Driving: SB20-065

The bill limits the use of a mobile electronic device while driving to adult drivers who use the mobile electronic device through a hands-free accessory. The bill was passed amended on February 11th by the Senate Transportation and Energy Committee and will be heard by the Senate Appropriations Committee on February 25th. An amendment was added that allows an exemption for two-way radios used by municipal workers.

CM Murillo expressed her concern over the enforcement side of this bill. CM Hiltz said her concerns are the cost to individuals who do not have Bluetooth built into their car and how do we define the difference between holding the phone in your hand while driving or holding a drink while driving. She agrees with the intent but has questions regarding the implementation and how people can become compliant.

Workers' Compensation for Audible Psychological Trauma: SB20-026

This bill concerns eligibility for workers' compensation benefits for workers who are exposed to psychologically traumatic events visually or audibly. The bill passed through the Senate Committee of the Whole on February 4th. The bill will be heard by the House Business Affairs and Labor Committee on March 10th.

An amendment limiting the scope of the bill has been added. City Attorneys have signaled they have removed their active oppose position due to passage of this amendment.

Retaliation Against an Elected Official: HB20-1121

Under current law, there is a crime of retaliation against a judge if an individual makes a credible threat or commits an act of harassment or an act of harm or injury upon a person or property as retaliation or retribution against a judge. The bill adds elected officials and their families to the crime. The bill was postponed indefinitely on Jan 30th due to first amendment freedom of speech concerns and the classification of the crime as a felony.

Family Medical Leave Insurance Program: Not yet introduced

Concerning the creation of a family and medical leave insurance program, and, in connection therewith, creating an implementation plan for a family and medical leave insurance program and making an appropriation. Meetings between stakeholders are ongoing and a bill has not yet been introduced.

Battery-charged Electric Fences: HB20-1129

The bill defines what a battery-charged fence is and limits the extent to which a local government can impose requirements relating to the installation or use of a battery-charged fence. The bill will be heard by the House Transportation and Local Government Committee on February 25th. The proponents have suggested they are willing to postpone indefinitely and work with CML in the interim on a compromise

Employee Protection lawful Off-Duty Activities: HB20-1089

The bill prohibits an employer from terminating an employee for the employee's lawful off-duty activities that are lawful under state law even if those activities are not lawful under federal law. This bill was postponed indefinitely by the House Committee on Business Affairs and Labor on Wednesday, February 19th.

Mobile Home Park Act Updates: HB20-1196

This bill concerns updates to laws governing mobile home parks including eviction, tenancy, and rental agreements. The Aurora Mobile Home Task Force met fifteen times over 2018-2019 and outlined key findings and recommendations including creating city policies and defining best practices that support and protect mobile home parks and mobile home residents in the city of Aurora. This bill passed the House Transportation and Local Government Committee on Wednesday, February 19th. It will be heard next in the House Appropriations Committee. No date has been set.

Mobile Home Park residents Opportunity to Purchase: HB20-1201

Concerning providing home owners in a mobile home park the opportunity to purchase the park under specified circumstances. The Aurora Mobile Home Task Force met fifteen times over 2018-2019 and outlined key findings and recommendations including creating city policies and defining best practices that support and protect mobile home parks and mobile home residents in the city of Aurora. This bill passed the House Transportation and Local Government Committee on Wednesday, February 19th. It will be heard next in the House Appropriations Committee. No date has been set.

CM Murillo spoke on HB20-1201 on behalf of the city in general support of the bill. This is not just an Aurora issue it is a statewide issue and should be addressed as such. The recommendation from the Mobile Home Task Force would be to support both these bills.

Public Real Property Index: HB20-1138

The bill requires each state agency, state institution of higher education, and political subdivision of the state to submit to the office of the state architect (office) a list of all usable real property owned by or under the control of the agency, institution, or political subdivision of the state. The bill passed the House Transportation and Local Government Committee on February 19th. CM Murillo has some strong reservations to how this bill would put Aurora in a position to facilitate charter schools that are not regulated the same way as public schools.

P. O'Keefe said that FPPA passed the House and was introduced into the Senate's Local Affairs Committee. R. Venegas said he spoke to CML and this bill is politically hard for Democrats to oppose. It looks like it will pass even if multiple municipalities opposed this bill. CM Lawson asked if there is anything that can be done, anyone who we can speak to, or is it a done deal? R. Venegas said we could still go to the Governor. We can also speak to the bill sponsor directly. Then we could go through CML and try to group all municipalities together to lobby the senators. CM Hiltz said she has always been pro fire department, but even she cannot support this bill. She is going to meet with FPPA and go over some of the concerns.

CM Lawson brought up SB20-2151; the administration of the RTD Regional Transportation District. She asked staff to keep an eye on that bill considering all the proposed changes. R. Venegas said he has been in touch with Rep. Jackson. Staff will look at the bill in regards to direct impact it might have on Aurora. Staff should have more information in a few days. Scott Newman, gave an update on SB20-1293 Emergency Telephone Services Charges.

MISCELLANEOUS MATTERS FOR CONSIDERATION

CM Hiltz said there has been some confusion concerning the Immigration Detention Facility Oversight Resolution, but it should be moving forward to Study Session on Monday, February 24. The resolution is a Council initiated resolution that is urging the state to take action in this matter. This resolution would essentially put the detention center medical clinic under the oversight of the Colorado Department of Public Health and Environment (CDPHE) since they already have the

capacity to do this type of oversight. The committee unanimously agreed to move the resolution to the February 24, Study Session.

CM Lawson said that she would like to hold off discussing the resolution on 16 year old's voting in school elections until there is a outcome in the state legislature on March 3.

6. CONFIRM NEXT MEETING

The next meeting is scheduled for March 6, 2020, 2:30 PM in the Mt. Elbert conference room.

Approved:

Angela Lawson 3-6-20
Angela Lawson Date
Committee Chair