

**Federal, State and Intergovernmental Relations (FSIR) Meeting
Video Conference Call Meeting**

June 12, 2020

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

Others Present: Roberto Venegas, Luke Palmisano, Nancy Rodgers, Natasha Campbell, Kathy Kitzmann, Peggi O’Keefe, Totsy Rees, Lauri Hettinger, Council Member Curtis Gardner, Council Member Alison Coombs, Council Member Dave Gruber, Council Member Juan Marcano, Trevor Vaughn, Rachel Allen

1. **APPROVAL OF MINUTES:** May 29, 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 to the video conference call and introductions were made.

Outcome: Information only.

Follow-up Action: None.

4. **FEDERAL LEGISLATIVE UPDATE:** Lauri Hettinger, federal lobbyist, gave an update on current federal legislation. Congress is expecting another COVID related bill. The House passed the HEROS act. It has no chance of passing the Senate. The Senate has been trying to work on its own version of the bill. There may be a draft after the July 4th recess. On Sunday, May 31, Rep. Justin Amash (L-MI) announced that he would be introducing the Ending Qualified Immunity Act to eliminate qualified immunity and restore Americans’ ability to obtain relief when police officers violate their constitutionally secured rights. In outlining the bill, he gave the following background:
- ‘As part of the Civil Rights Act of 1871, Congress allowed individuals to sue state and local officials, including police officers, who violate their rights. Starting in 1967, the Supreme Court began gutting that law by inventing the doctrine of qualified immunity.
 - Under [qualified immunity](#), police are immune from liability unless the person whose rights they violated can show that there is a previous case in the same jurisdiction, involving the exact same facts, in which a court deemed the actions to be a constitutional violation.
 - This rule has sharply narrowed the situations in which police can be held liable—even for truly heinous rights violations—and it creates a disincentive to bringing cases in the first place.

- If a plaintiff knows there is no prior case that is identical to theirs, they may decline to even file a lawsuit because they are very unlikely to win.
- Even if a plaintiff does file a case, a judge may dismiss it on qualified immunity grounds and decline to decide whether the plaintiff's rights were violated, meaning the constitutional precedent still isn't established and so the next plaintiff still can't recover.
- This can create a permanent procedural roadblock for plaintiffs, preventing them from obtaining damages for having their rights violated.
- Qualified immunity was created by the Supreme Court in contravention of the text of the statute and the intent of Congress. It is time for us to correct their mistake.
- This bill, the Ending Qualified Immunity Act, does this by explicitly noting in the statute that the elements of qualified immunity outlined by the Supreme Court are not a defense to liability.
- The brutal killing of George Floyd by Minneapolis police is merely the latest in a long line of incidents of egregious police misconduct.
- This pattern continues because police are legally, politically, and culturally insulated from consequences for violating the rights of the people whom they have sworn to serve. That must change so that these incidents of brutality stop happening.
- Until then, we must ensure that those whose rights are violated by police aren't forced to suffer the added injustice of being denied their day in court.'

Rep. Ayanna Pressley (D-MA) is co-leading the bill and it is amassing numerous cosponsors.

CM Murillo asked where the Colorado state delegation stands on this bill. L. Hettinger said Congressman Crow is very interested in this bill. On the Senate side it is still unclear.

CM Lawson asked if the Trump administration is initiating something regarding police reform. L. Hettinger said President Trump did hold a meeting yesterday with law enforcement. But is not aware what they are doing today. She will find out and share any information.

The House transportation and infrastructure committee is considering a transportation reauthorization bill. It will provide money for different projects the city is interested in. They have not identified how they will pay for the bill yet. It will most likely be extended to next year.

CM Murillo said it seems hard to talk about bills that we know will not go anywhere. Do we know what the opposition will look like? L. Hettinger said, some Republicans think the bill is too expensive and there are some environmental provisions in it that they do not like either.

Summary of Issue and Discussion: Information only.

Outcome: Information only.

Follow-up Action: None.

5. STATE LEGISLATIVE UPDATE

Summary of Issue and Discussion: Nancy Rodgers, Assistance City Attorney, gave an update of SB20-217 Enhancing Law Enforcement Integrity:

This bill concerns new mandates on local law enforcement agencies including requiring all on-duty officers to wear body cameras, requirements on releasing body camera footage, and mandates for

the Police Officer Safety and Training (POST) Board on tracking footage. The bill also includes measures concerning the inappropriate use of force by officers, the ability for a citizen to bring a civil suit, and liability of officers and police departments.

The bill passed third reading by a vote of 32-1 on Tuesday, June 9, 2020 by the Senate Committee of the Whole. The bill is scheduled for a hearing in the House Appropriations Committee Thursday, June 11, 2020.

After initially opposing the bill, Senate Republicans worked with bill sponsors on substantive amendments. Among the amendments was an extension of the deadline for peace officers to have body cameras to July 1, 2023. The defense of qualified immunity is specifically prohibited with regard to the liability of a peace officer as outlined in the bill. If a peace officer is found to have not acted in good faith, they are personally liable for 5% of a judgement up to \$25,000 but if the amount is not able to be collected, the amount can be recovered from the peace officer's employing jurisdiction or insurer. This amount has been lowered from \$100,000 included in the original draft. Other amendments included: changes that clarified what is considered a stop or contact with the community; limits to the collection of demographic information; an extension of the statutes of limitation for filing a claim; means to address privacy issues related to body camera footage; and coverage of an officer in the event of a body camera malfunction.

N. Rodgers said the Colorado Association of Chiefs of Police has taken a more neutral or supportive stance on this bill since it has been amended from the original version. There are still some parts of the bill that are concerning. The expansion of body worn cameras could result in needed software and additional staff. They are good ideas but will result in additional costs for the city to comply. Luke Palmisano said city staff recommended a position of active support. CM Murillo said she supports the bill even though she does not agree with all of the amendments. It is a moot point now since we had no control over the amendments that were made. CM Lawson said she supports the bill as well. She said she did not agree with all of staff's reasoning for some of the amendments that were presented. CM Hiltz said she supports the bill but it does not go far enough and it was watered down significantly from where it started. Even the original bill did not go far enough in certain areas. She is glad the privacy issues were addressed. Committee unanimously agreed to actively support the bill.

CM Gardner said he agrees that the bill got significantly watered down. There are still some positive things in there. He said he did have some reservations to some of the body camera policies and the privacy issues, but most of these have been addressed in the amendments. He said he agrees with CM Hiltz that this is a very watered down version, while it is a step in the right direction there is a lot more to be done.

Trevor Vaughn, Manager of Tax and Licensing, gave an update on Cigarette Tobacco And Nicotine Products Tax : HB20-1427. This bill concerns the taxation of products that contain nicotine, and, in connection therewith, incrementally increasing the cigarette tax and the tobacco products tax. This bill passed second reading the House Committee of the Whole on Thursday, June 11, 2020 and is on the calendar for third reading today, Friday June 12, 2020. T. Vaughn said it does not have a direct impact on the city, there are couple issues the committee should be aware of. The bill increases the State's occupational tax. Before 1973 the city used to charge an occupational tax on cigarettes. In 1973 to simplify matters the State started collecting that tax instead of the cities and then share a portion of that money with the municipalities. In this new bill there is no provision for revenue sharing of the increase of the occupational tax. The city will still get the same share back from the state even though they are increasing the tax. Because the city revoked the cigarette exemption the Department of Revenue is incorrectly interpreting that the city will not receive any of the money shared in either the new or the old bill. Since they are discussing

this bill it may be a good time to try and resolve these issues. CM Lawson asked if staff is going to take this up with the bill sponsor. T. Vaughn said it is up the committee on how they would like to handle it. L. Palmisano said the committee could take a position to work on changes with bill sponsor. To remind the state that there is this an agreement to share the tax with municipalities and to ask if the increase will be passed on to the municipalities as well. CM Lawson said we should say something. CM Murillo agreed to pursue changes though the bill sponsor. CM Hiltz agreed to that as well.

Peggi O'Keefe, state lobbyist, gave an update on the state legislative bills they are monitoring.
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 Senate Committee of the Whole on Friday, June 5, 2020. It will head to the governor for his signature or veto.

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. An amended version of this bill passed the House Committee of the Whole on Wednesday, June 3, 2020. It will head to the governor for his signature or veto.

Workers' Compensation for COVID-19: SB20-216

This bill provides that, for purposes of the "Workers' Compensation Act of Colorado", if an essential worker who works outside of the home contracts COVID-19, the contraction is: Presumed to have arisen out of and in the course of employment; and a compensable accident, injury, or occupational disease. An essential worker is considered to have contracted COVID-19 if the worker tests positive for the virus that causes COVID-19, is diagnosed with COVID-19 by a licensed physician, or has COVID-19 listed as the cause of death on the worker's death certificate. The bill was postponed indefinitely by the Senate Appropriations Committee on Wednesday, June 10, 2020.

Sick Leave for Employees: SB20-205

The bill creates the Healthy Families and Workplaces Act (act), which requires employers to provide paid sick leave to employees under various circumstances. On and after the effective date of the act through December 31, 2020, employers are required to provide each of their employees paid sick leave for employees to take for reasons related to the COVID-19 pandemic in the amounts and for the purposes specified in the federal Emergency Paid Sick Leave Act in the Families First Coronavirus Response Act.

The bill is on the House Committee of the Whole calendar for second reading for Thursday, June 11, 2020.

Create Occupational Credential Portability Program: HB20-1326

This bill concerns an expansion of an individual's ability to practice an occupation in Colorado through creation of an occupational credential portability program. This bill is viewed as a necessary component to attract the permanent US Space Command Base to Colorado and has been fast tracked. This bill passed the Senate Committee of the Whole on Wednesday, June 3, 2020. It will head to the governor for his signature or veto.

P. O'Keefe said she does not expect to see any more bills introduced since the legislative session is almost over. CM Lawson asked for a status on HB20-1009 the suppression of court records in eviction proceedings. P. O'Keefe said it was signed by the Governor. CM Murillo asked for an update on the bill related to evictions sponsored by Rep. Gonzalez. P. O'Keefe said this is HB20-1410 and it did pass but was watered down a lot. She will get more information on what that bill looks like now. CM Murillo said she had heard that even if the Fair Tax bill passed both chambers the Governor would not sign it. Is there any truth to this? P. O'Keefe said the Fair Tax bill has been a big deal. It looks like it could go one of two ways; either the bill will die and or the Governor vetoes it or it is amended dramatically. CM Lawson asked if there is a bill in the works that would create a loan relief fund for small businesses impacted by COVID? Totsy Rees said she believes so but would have to do more research. CM Lawson also asked about the bill regarding relief funding for housing, food and energy assistance? T. Rees said there was a utility relief bill that passed and is on its way to the Governor's office. She will send the final bill to the committee for informational purposes. CM Hiltz said the resolution passed by Council urging detention center oversight seems to have done some good seeing that the bill creating oversight for detention centers passed. CM Lawson asked if all the bills the city has taken a position on could be compiled into a spread sheet. L. Palmisano said he would get that done in the next week. CM Gruber asked since the Colorado supreme court ruled that the legislature does not have to meet on consecutive days, is there a possibility that they go into a recess and then come back and possibly overrule the Governors vetoes. T. Rees said she did hear something to that effect.

Outcome: Committee unanimously agreed to seek changes through bill sponsor on Cigarette Tobacco and Nicotine Products Tax: HB20-1427.

Follow-up Action: Staff seek changes through the bill sponsors for the Cigarette Tobacco and Nicotine Products Tax: HB20-1427.

6. WATER

Summary of Issue and Discussion: Kathy Kitzmann, Water Resources Principal gave an update on the following:

Draft State Legislation – Establish State Dredge & Fill Permit Program

Thank you for the email approval to take an “actively oppose” position on the draft bill to establish a state dredge & fill permit program. The draft bill was strongly opposed by water providers and regulated community. Colorado Water Congress sent a letter to the General Assembly requesting

that the bill not be introduced. We were aligned with CWC's message. So far the draft dredge & fill bill has not been introduced and not likely to be introduced. We anticipate that the Colorado Department of Public Health and Environment will begin a stakeholder process to refine any desired legislation for next session.

HB20-1412 COVID 19 Utility Bill Payment Related Assistance

Introduced on June 4th, HB20-1412 allocates \$10 million of federal CARES act funding to the Colorado Energy Office to provide direct utility bill payment assistance to households facing economic hardship due to COVID-19 pandemic. Unfortunately, the utility bill payment assistance in HB20-1412 does not include water bills. We inquired about adding water bill assistance. Energy Outreach Colorado had considered including water as they work with a number of water utilities, including Aurora Water Cares program. Energy Outreach Colorado felt adding water was part of a much larger discussion then the time would allow for HB20-1412 in this short session. Energy Outreach Colorado is interested in doing more water utility assistance and planning on undertaking discussions later this summer. The water department will not be taking position on HB20-1412.

Outcome: Information only.

Follow-up Action: None.


7. MISCELLANEOUS MATTERS FOR CONSIDERATION

CM Murillo asked if the committee is going to take a position on the Qualified Immunity bill. L. Palmisano said he did not think there is enough information to present to council at this time. But it would be a good bill to bring to the council. CM Lawson said to be in compliance and for transparency will the committee need to call an emergency meeting on this issue? L. Palmisano said if the committee meets in two weeks it will allow enough time. The committee decided to meet in two weeks and will decide if they want to go to meeting once a month.

8. CONFIRM NEXT MEETING

The next meeting is scheduled for June 26, 2020, 1:00 PM WebEx video conference meeting.

Approved:


Angela Lawson
Committee Chair

7-24-20
Date