

MINUTES

CITY OF FORT COLLINS • BOARDS AND COMMISSIONS



ECONOMIC ADVISORY BOARD

TYPE OF MEETING – REGULAR

October 19, 2022 4:00 – 6:00 pm
Via Zoom

1. CALL TO ORDER

4:00 pm

2. ROLL CALL

- List of Board Members Present
 - Renee Walkup
 - Thierry Dossou
 - Denny Coleman
 - Jeff Havens
 - Braulio Rojas
 - John Parks
 - Mistene Nugent
- List of Board Members Absent – Excused or Unexcused, if no contact with Chair has been made.
 - Blake Naughton
 - Aric Light
- List of Staff Members Present
 - Jillian Fresa, Staff Liaison, Economic Sustainability
 - Kirk Lonstein, Senior City Planner

3. AGENDA REVIEW

- No changes

4. CITIZEN PARTICIPATION

- N/A

5. APPROVAL OF MINUTES

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6. UNFISNISHED BUSINESS

- **Small Business Recovery Grants**

- Jillian shared during round one they received 186 applications and were able to fund \$422,000 to 61 businesses. Four of the applications were in Spanish and four of the applications received additional funding for construction impacts. Round two opened on October 3rd and will be open until November 2nd. They have about \$400,000 left. The only change from round one is the revue cap was raised to \$1 million from \$500,000.

7. NEW BUSINESS

- **1041 Regulations**

- Presentation from Kirk Longstein, Senior City Planner. 1041 regulations will be going to City Council on November 8th for a work session.
- The 1041 regulations are a permitting program implemented though the City's development review. The role is to be regulatory not advisory, influence project location and design, authority to deny or revoke permit, enforcement and penalties, financial securities for impacts and restoration requirements, inspections even on private property, equity/benefit analysis requirements. The 1041 regulations powers push down activities and areas of state interest to local jurisdiction to regulate them, their impacts, and benefits. The intent is to align with community values and benefits.
- The process started in 2021 with focus groups and outreach. Council had a work session and provided feedback on the first draft in June. They conducted additional community engagement and revised the code. It should be posed to the website prior to the November 8th work session. There is a current moratorium in place that will expire on December 31st so they will ask Council if they need to extend it.
- **Q (John)** If I understand correctly, you are just updating the City codes for dealing with site plan changes, there is not a specific project you are focused on.
 - **A (Kirk)** Council has designated activities of state interest that they would like us to regulate here within the City of Fort Collins. Those activities include new wastewater treatment facilities, interceptor collector lines, bus stations, wastewater projects, some CDOT projects, interchanges, collector highways, expansions of vehicular lanes to existing roads, major highway interchanges, and expansion of interchanges. The projects that fall within those specific activities will go through a 1041 permitting process.

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- **Q (Renee)** So this code will supersede the state code?
 - **A (Kirk)** Currently groups like CDOT and water providers are regulated federally. There is likely to be a federal nexus with these projects and some state statues as well but then we will take jurisdiction over those areas that are essentially not jurisdictional, but we have interest in here locally.
- **Presentation** The activities and areas will be covered in this code and will also include an update to the definition of development to include CDOT projects and major pipelines. There are some exceptions and thresholds. Operations and maintenance would not be covered, as well as projects that already have an approved building permit, development approval or existing vest rights. Private development is already subject to our land use code so we would not have two separate processes for them.
- They also shrunk the geographic range for where these projects could also be subject to the regulations. Water and wastewater projects would need to be reviewed if they are in a natural area, park, in NHBZ, or have impacts to historic/cultural resources. Highway projects would need to be reviewed if they are in a natural area, park, in NHBZ, have impacts to historic/cultural resources or could result in relocation of homes or businesses. They will also look at natural habitat buffer zones. These zones could include wetlands, rivers, streams, lakes, fox dens, endangered plants, bald eagle sites, etc.
- **Q (Denny)** Are turkey vultures a protected species here?
 - **A (Kirk)** We follow the Colorado Parks and Wildlife. They have specific guidelines and standards around different buffering. Most are nesting raptors or songbirds. We don't have any buffering for turkey vultures right now.
- **Presentation** If the project falls into one of those categories mentioned above and also intercepted with one of our natural habitats features or natural areas, it would prompt a 1041 review. The staff would conduct a finding of negligible adverse impacts (FONAI). After the findings a community member or applicant could appeal staff's decision. If there are adverse impacts, it would go through a full project review to look at alternatives to impacts. A staff report would be sent to City Council who would make the decision.
- There are time frames that the review process is bound to.
- **Q (Renee)** Did the process start at a planning and zoning (PZ) recommendation or did it always go to Council?

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- **A (Kirk)** In version one we had two pathways. We had an administrative review where staff could be a final decision maker and we had a second path where Council was a decision maker. The feedback from the community was it places too much power in the hands of staff on a subjective decision. We removed staff from the decision process. Staff will just collect information and present to Council. Adding the timelines was also feedback from stakeholder groups that were uncertain about the additional burden a delay on the project would have. Federal permitting is required already so a lot of the materials might already be available, we would just need to review it.
- **Presentation** The City also wrote review standards to remove any interpretation uncertainty. They will release the revised draft for review in late October. They will attend a November 8th work session. On November 11th there will be a PZ work session and on Nov 17th there will be a PZ hearing. December 6th or 20th will be the first council reading and then December 20th or sometime in Jan/Feb will be the 2nd Council reading. Those dates will be determined if they want to extend the moratorium.
- **Comment (Braulio)** It is a lot of information to understand what you are doing, and you have done it very clear. I like the part about seeing if we can regulate those areas where there is a gap or impact for the City. I didn't see something clearly saying we are regulating "X" because there was no federal, state or county regulations. I don't want to do over reviewing. Another thing is are there other cities that have done this? That might provide some more information or outcomes. It is hard to have a good picture if we can't have good examples. Regulating is good in trying to prevent and protect the City interest but don't overwork or duplicate efforts.
 - **Comment (Kirk)** I think that is great feedback and maybe I didn't provide enough background. Primarily counties have 1041 regulations. Larimer County has a 1041 permitting process in place. Fort Collins is unique in that we would be a local jurisdiction that would have these powers. We got research from 11 counties and our regulations follow pattern of those other counties. Where we deviate is when don't prescribe pipe size when we are defining a project. Rather than have these regulations cover edge to edge, we are looking more surgical around those habitat features or high interest areas, like natural areas. We have limited the geographic area. In terms of addressing the gap, I think I could explain that better to Council as well. It is hard to say across the City we have X amount not being covered so it is geographically specific as well.

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- **Q (Denny)** To clarify, I thought I heard you say this is for non-private development. Is there another set of regulations for private?
 - **A (Kirk)** Private development would be covered under the Land Use Code. These are primarily agencies that are rated at the state or federal level.
 - **Q (Denny)** Are similar kind of issues dealt with those other regulations? This seems thorough and that is good.
 - **A (Kirk)** Anytime there is development for a site plan that is within 500ft of a natural habitat feature it requires an ecological characterization study. Private developers must identify everything from wetlands to prairie dogs. We also have tree preservation standards, and we hold a financial security from them to ensure mitigation requirements are met. With the 1041 regulations, we would include financial security for mitigation to these non-jurisdictional wetlands and habitat features.
- **Q (Denny)** Are there long-term requirements for developers to maintain things like landscaping?
 - **A (Kirk)** Traditionally we have a performance period for maintaining. We have a mitigation plan saying you will put the site back this way. We tend to put a timeline on that and then we would release the security. The developer would then transfer ownership to the HOA or whoever the new owner is. There is a development agreement and requirement to maintain that. Our inspection capacity is fairly limited though. If someone were to complain we would follow up, but we are not actively enforcing.
- **Q (Renee)** Who is responsible for the ecological studies?
 - **A (Kirk)** The development applicant. They typically hire a third-party contractor. It is similar to a project that would come through the Site Plan Advisory Review (SPAR) process. We ask for an ecological characterization study. In the SPAR process it is advisory.
- **Q (Renee)** If CSU were expanding a campus building and there were wetlands next to them or an endangered species, are they exempt from the 1041 requirements because they are a state entity.
 - **A (Kirk)** Depending on the size and details, they would go through the SPAR process where we could provide a recommendation. They would not be under the 1041 powers since they are not an activity of state interest. We have only designated those specific projects.

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- **Q (John)** You were mentioning the Thornton Pipeline and NISP. It is interesting how NISP was supported by the commissioners, a new election happened, the Thornton Pipeline was voted down, and then the rejection was supported by the state judge. What happens now?
 - **Q (Kirk)** The Thornton decision is relevant because of what happened. The Court case happened between version one and two while they were right in the middle of writing the codes. It is very timely information primarily that decision. They were attempting to regulate culminative impacts outside of their jurisdiction like impacts on farmland, so the court decided that they exceeded their jurisdictional powers. We are very cautious and mindful that our jurisdiction ends at city limits and that we are not trying to exceed those jurisdiction powers by regulating outside of it. It is a large project and crosses many different jurisdictions.
- **Q (Denny)** Do you have issues with the railroads at all?
 - **Q (Kirk)** I am new to this position, and I haven't encountered any interaction, but the railroad would be a federal process; it is not designated here.
 - **Comment (Denny)** You have two lines that run so directly through a city, so I was just curious if there were any issues.
 - **Comment (Kirk)** As an environmental planner, I would be more concerned about railroads that go through wetlands or anything happening adjacent to those railroads. Unfortunately, when we are doing ecological restoration, we are kind of pushing back against them. If a railroad splits a wetland right down the middle, it makes those restoration projects difficult.
- **2023 Work Plan**
 - Every year the Board goes through their work plan to refine their goals and what they would like to accomplish for the year. It is due November 30th and will be sent to the City. They had a discussion on what their goals should be and if anything needs to be adjusted.
 - Denny suggested adding the wording threats and opportunities.
 - Jeff asked about why certain presentations are given to the Board when they don't seem to be related to economic health. Jillian stated that she believes some of these topics like development do have a significant effect on economic health. They could think about questions about how it could impact it. Jeff wondered if his job should be to make sure he asks questions always

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focused on economic impact or if his job is to be broader. Renee believes that everything in the City seems to be linked and related.

- Denny stated that Fort Collins is unique because there is so much emphasis on the quality of the environment and that is attractive for people especially high-tech workers and jobs. It is important for them to keep a broader perspective than just economic functions and to be aware of those environmental issues that surround development to maintain the high quality of life. Braulio agreed that if it is related to regulation, it has an economic impact directly or indirectly, especially if not properly addressed. Sometimes they have presentation that really touch on economy like affordable housing but sometimes they have presentations to get their perspectives. Renee stated that they bring a different perspective.
- John stated that part of their duty is not only to advise Council but City staff as well on presentations before Council. Renee believes they have made a difference by helping staff with presentations.
- Jeff feels more impactful when the presenters are looking for feedback vs informational presentations. Braulio agreed that sometimes they come looking for advice or written support and sometimes they don't. He also brought up that everything happening in the meeting is public record including the opinions they give so they are at least producing material for the public.
- Renee wonders if they are missing something or need to be clearer to the presenters and say they are here to help advise and will be thinking about economy and businesses. Jeff would like for them to come in knowing they are going to get something useful out of it. Renee and Braulio wonder if they should have the presenters come with an ask, that they offer a lot of value, and they goal is to assist them in thinking about the business environment of the City. Braulio also mentioned to keep it simple; Council is one body, and the Board is another body that provides advice to Council. They should communicate when they are asked or when they are aware of something.
- John and Renee agree that they should add they advise City Council and staff. Denny mentions reminding presenters that the first word of the Board is Economic. Renee mentions the staff might not have the expertise or isn't thinking that way, so it is an opportunity for them to shape the presenter. Jeff mentions that the second word is advisory and that is important as well as they are there to provide advice, perspective, and direction so they need to hear from people that need that. Renee mentions that the Board doesn't have to be directed by the City either. If someone has an idea they should focus on, they can do that as a Board and make a recommendation to council regardless of the presentations. John mentions using the Board Member

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Reports for that.

- Mistene stated if they are not advising Council directly, they can do it thought some of the presentations and providing feedback in preparation for the presentation and discussions that might happen. It could be a different slant on where they are providing input and value. Mistene mentions they have only sent one written recommendation to Council since she started in January. If they don't influence Council directly, maybe they can indirectly through some of the discussions with staff. Renee stated they can send as many memos as they want to Council but is not sure if they will act or even read them. They don't have to be passive.
- John thought number three that mentions collaborating with other boards and commissions could be removed as it didn't work out the way they had imagined and could be difficult to coordinate. Jeff did not have issues with the goals or objectives. Braulio thought it was a good but wondered how they could have more of an impact and to focus on what they can control like more documentation, feedback, and comments. He mentioned they have not been approached by Council to provide feedback on a topic, but it doesn't mean they can't self-initiate something. They have to produce more documentation, send advise, and be more active.
- Renee mentioned that a lot can be done with you have relationships with people. She thought it would be useful to meet with Council and introduce themselves but in the past have told they can't. Jillian mentioned they have a Council Liaison but will look into the rules. John mentioned public comment. Braulio recommended meeting with the Council Liaison and starting from there. Renee believes if they know who they are sending a memo will be more impactful. Denny and Braulio also liked the idea. John mentioned he heard from another board that if you want to make a big impact, show up to the public comment after writing a memo when they are addressing that issue and say why it is important.
- Denny asked about the consultants working on the Economic Strategic plan and how that fits into their work session. Jillian mentioned she just messaged Renee and John about scheduling a special meeting with the Board and the Consultants for a stakeholder interview. They should be going to Council in either January or February so she would like the interview to be in November. Denny recommended using that opportunity to go to Council to show support for staff on it and say how they are there to help implement it. John liked that idea. They agreed to try and do the stakeholder interview on November 16th. Jillian will check with the consultants and make sure that works and if it should be an official Board meeting or not.

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- Renee mentioned removing number three and Braulio mentioned how it would be good to keep it on there as a wish list. John and Renee mentioned that there is some major editing that needs to be done to the document as many of the topics are not outdated and prioritization shifted.
- Jillian mentioned the industry cluster study and regionalism will be ongoing. Jillian will check with the affordable housing staff to see if the Board would have much impact there. Renee didn't think they needed a connection update. Jillian stated that Council read their letter on minimum wage and Kelly Olsen referred to it during the work session.
- Renee was interested in seeing the small and medium sized business plan. John and Braulio are interested in hearing about inflation impacts and awareness. Renee also feels strongly that it would be useful to encourage Council to take on a small business initiative to keep more money in the City and less money going to third parties and online businesses. She emphasized the importance of buying local and how it creates a vibrant economy. She is concerned about the small and medium sized businesses. She also is concerned about the environmental and traffic impacts of delivery trucks.
- John asked about the small and medium business plan and wondered if that was connected to Renee's point. Jillian stated that was part of the Recovery Plan the City Adopted.
- John took notes and will send them out to the Board. John and Braulio will work on the first draft and send it out to the board. Jillian will need it by November 25th. The Board mentioned having 30minutes next month to finalize the work plan.

8. UNFINISHED BUSINESS

- None

9. BOARD MEMBER AND STAFF REPORTS

- Denny attended the Business Appreciation Celebration. It was very well done so congratulations to Jillian, SeonAh, and the rest of the staff that put it on. I though the crowd was great, and the facility was wonderful. The video was well done, and the panelists were really good. It was nice to see the Mayor and Assistant City Manager there. Well done.

10. OTHER BUSINESS

11. ADJOURN - 6:00 pm