

MINUTES

CITY OF FORT COLLINS • BOARDS AND COMMISSIONS



TRANSPORTATION BOARD

TYPE OF MEETING – REGULAR

December 21, 2022, 6:00 p.m.

Virtual Meeting Via Zoom

FOR REFERENCE:

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| Chair: | Indy Hart |
| Vice Chair: | Cari Brown |
| Council Liaison: | Emily Francis |
| Staff Liaison: | Aaron Iverson |

1. CALL TO ORDER

Chair Hart called the meeting to order at 6:01 PM.

2. ROLL CALL

BOARD MEMBERS PRESENT:

Indy Hart, Chair
Cari Brown, Vice Chair
York
Jerry Gavaldon
Jess Dyrdaahl
Ed Peyronnin
Stephanie Blochowiak

CITY STAFF PRESENT:

Kirk Longstein

PUBLIC PRESENT:

None

BOARD MEMBERS ABSENT:

Nathalie Rachline
Rob Owens

3. AGENDA REVIEW

Iverson stated there were no changes to the published agenda.

4. CITIZEN PARTICIPATION

None.

5. APPROVAL OF MINUTES – NOVEMBER 2022

Vice Chair Brown made a motion, seconded by York, to approve the minutes of the November 2022 meeting as amended to clarify the Annual Report will not be completed until January. The motion was adopted unanimously.

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6. UNFINISHED BUSINESS

Gavaldon noted a new Planning and Zoning Commissioner liaison needs to be selected as he will be stepping down from that position. Chair Hart suggested waiting to make that selection as some members are missing.

Chair Hart requested discussion around the Work Plan and whether the five E's have been amended to include the sixth E, equity. Iverson stated he found that sixth E, equity, is a new one in the list and he made those adjustments to the Work Plan.

7. NEW BUSINESS

a. 1041 Regulations – Kirk Longstein

Kirk Longstein, Senior Environmental Planner, noted this item will be going before Council on February 7th; therefore, any input from the Board would need to be received by then. He discussed the version of the 1041 regulations that were presented to Council at a November work session noting that version was a shift away from project-based thresholds that essentially would trigger a permit application to more geographic-based thresholds. He also noted Council asked staff to explore adding a definition of natural resources. He stated the intent is to develop a third version of regulations in January following this public feedback and information gathering phase.

Longstein outlined House Bill 74-1041, which allows local jurisdictions to take local control to regulate surface activities related to areas and activities of statewide interest, a number of which are defined within the Bill. He noted Council has designated two different areas: domestic water, wastewater treatment, and transportation highways and interchanges through CDOT projects. He stated those projects are typically reviewed through an advisory site plan advisory review process (SPAR) whereas 1041 regulations would be binding and provide a more rigorous permitting process. Therefore, adopting the 1041 regulations would give the City authority to improve outcomes for these types of projects. He noted Council requested an extension of the moratorium, which is a statutory requirement for adopting the regulations, until March 31st at its November work session.

Gavaldon commented on the site plan advisory review process.

Chair Hart noted members have been discussing difficulties with satisfying all parties and 'meeting in the middle' in the chat.

Longstein discussed the current draft regulations and permitting process. He noted the review would include whether or not a project meets the definition of one of the designated activities and would look at the geographic thresholds, including historical, cultural, resource buffers, natural habitat and features and associated buffers, and City-owned properties, including natural areas. He stated projects would then go through a pre-application process to determine whether a finding of negligible adverse impact can

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be granted or if a full permit review needs to occur. He noted the finding of negligible adverse impact is appealable to the Planning and Zoning Commission. Prior to a full permit review, staff would work with an applicant to identify three alternatives and begin work on mitigation. The full permit review would include an application fee, which would be similar to a PDP fee and the hiring of a third-party consultant to assist with application review. Any mitigation would then be reviewed in more detail and security and daily inspections would be required if the permit is issued. He noted City Council would be the final decision maker for all permits.

Gavaldon asked about the need for a third-party consultant. Longstein replied the applicant would be submitting any sort of analysis or documentation to review against the City's general review standards and the third-party consultant would help support staff capacity in facilitating the permit review. He noted the applicant will be paying for the consultant.

Gavaldon expressed concern about the use of consultants in the long-term on a continuous basis. Longstein noted the permitting program includes a cost-recovery model to ensure staff capacity meets the demands of the community in terms of development and this program would have a similar approach. He stated staff will be requesting additional resources from Council as there is currently no capacity with existing staffing levels to administer the program. He added the current hiring environment has made it difficult to hire employees.

Chair Hart asked how someone would know to appeal a finding of negligible adverse impact. Longstein replied notices would go out related to the projects and neighborhood meetings would occur at the conceptual level; therefore, any party-in-interest could appeal.

York asked how often it is expected this process will be executed, which would determine whether or not the use of consultants would be valuable. Longstein replied water providers have indicated the way that activities and projects that would be covered under these regulations are currently defined would lead to the process being used more frequently. He suggested the next iteration of the regulations may include being more specific around project parameters to better manage the process. Additionally, he noted the definition of development in the Land Development Code is being updated to include designated activities within existing rights-of-way as well as Fort Collins Utilities projects.

Blochowiak noted she has been involved in the process of creating the 1041 regulations since it started. She stated how the regulations ultimately get written will determine how many projects get 'captured' for review. Additionally, Fort Collins Utilities projects will newly be included. She also noted it can be difficult to estimate staff time for reviewing a development project because they vary in complexity.

Longstein commented on the need to ensure the regulations are not overly burdensome and punitive to smaller water providers while still being able to appropriately regulate

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larger projects such as the Northern Integrated Water Supply Project (NISP).

Longstein commented on CDOT's experience with 1041 regulations across the state noting it frequently deals with the types of projects that would fall under the regulations.

Gavaldon asked if the North College MAX plan would conceivably fall under 1041 regulations. Longstein replied he does not have enough information about the project to state with certainty whether it would fall under the regulations; however, projects that include an expansion of one vehicular lane would be covered under the current definitions. He noted he believes that project is proposing to work within the existing infrastructure, however.

Gavaldon encouraged Longstein to make appropriate staff members aware of the upcoming regulations in the event they may apply to the MAX project.

Longstein further detailed the new geographic thresholds and noted a definition for disproportionately impacted communities was included as part of the general review standards; however, it is very difficult to map geographic thresholds for disproportionately impacted communities, which is a bit of a deficiency in this current set of regulations.

Vice Chair Brown asked about an instance wherein an irrigation ditch serves as a wildlife corridor. Longstein replied alternative siting analysis would be required as part of the pre-application process, and hopefully at least one alternative would avoid a direct impact with the natural habitat feature. If that is not possible, the preferred pathway will be the one with the least adverse impact and, if the project does intersect with a buffer zone, then a mitigation plan would be required. He noted a project that can avoid all buffers and adverse impacts will not be required to go through the permit process.

Longstein stated a methodology for applying cumulative impacts has yet to be developed and there is quite a bit of pushback on applying cumulative impacts through review standards, but it is being considered. He stated the proposed regulations contemplate applying exemptions to projects that were previously approved through the SPAR process by the Planning and Zoning Commission. He noted NISP was denied by the Planning and Zoning Commission; therefore, these 1041 regulations would apply to the project.

Gavaldon asked if permits are already being issued for NISP. Longstein replied the project came to the City through the advisory SPAR process and it was not approved by the Planning and Zoning Commission. Because that process is solely advisory, Northern Water went through its own process to move the project forward. The 1041 regulations are a separate legislative process; therefore, it is the City's position that it does have the authority to bring that project through 1041 permitting if the regulations are approved by Council.

Gavaldon asked what would occur if Council does not approve the NISP project based

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on 1041 regulations. Longstein replied that would be a binding decision that would then be dealt with at a district court level or Northern Water could resubmit a different alternative through the process.

Gavaldon asked if any of the 1041 regulations are part of the new Land Development Code given it appears a citizen-initiated petition to repeal it is moving forward. Longstein replied Council will be taking action regarding the referendum at its January 17th meeting and will either be putting the issue to a vote on the November ballot or repealing the ordinance. He stated if the 1041 regulations are adopted on February 7th, they will be adopted into the existing Land Use Code.

York asked about the definition of natural resources. Longstein replied there are definitions of natural areas and natural features within the city and there is a definition of natural resources within House Bill 1041 related to mineral resource areas, natural hazard areas, and areas more specific to extractable natural resources, which is different from the way the City views protected natural resources.

York asked if privately-owned natural resources would fall under the definition. Longstein replied privately-owned natural resources would be looked at holistically under general review standards related to adverse impacts of third-party projects.

Longstein reviewed high-priority habitat definitions within the community noting that includes wildlife connectivity.

Chair Hart commented that when he thinks of natural resources, he thinks of the ecological impact of different areas. He commented on the wildlife connectivity map and the importance of realizing the impact of projects on the ecology of the area as well as on extractable resources.

Longstein noted the 1041 regulations are not meant to block projects, but rather to provide better outcomes and predictability for applicants so they can work to achieve those better outcomes.

Gavaldon asked if the Hughes Stadium land would fall under 1041 regulations. Longstein replied there are currently no projects that would intersect with the Hughes Stadium land; however, if an activity of statewide interest were proposing a project through that land, it is likely that the 1041 regulations would apply.

Chair Hart commended the process stating it makes sense as a way for the City to be able to help projects develop alternatives that may result in better outcomes. He stated defining the thresholds will be important as will noting why the thresholds were developed as they were. He also stated it will be important to define natural resources so they can clearly be defined within the context of 1041 regulations.

Longstein suggested the Board could make a motion with any type of desired conditions and he would include the minutes with his Council packet.

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Vice Chair Brown stated many of the natural resources things hinge on at what point it gets to be too late for impacts to not be felt. She concurred it is difficult to measure cumulative impacts.

York stated the Fort Collins/Loveland Water District has a water tank just to the northwest of the Hughes property and asked if that would then have the potential of falling under the 1041 regulations, in which case, the definition of natural resources is going to be crucial. He concurred success or failure of these regulations will depend on definitions.

Gavaldon discussed water issues at Hughes Stadium related to the Fort Collins/Loveland Water District tank. He suggested it may be important to do some research as to whether piping still exists in the area. He stated he would oppose supporting the regulations at this point, but may have a different opinion in January if details are further flushed out.

Longstein noted there will not be an updated version three of the ordinance language until the February 7th Council packet is ready, which is two weeks prior to that meeting. He noted staff is requesting policy directions and guidance related to the second draft from stakeholders such as the Board.

Blochowiak noted it seems as though projects that previously sought easements to cross or access City land may now have to go through the 1041 process.

York suggested the Board should at least consider a motion whether it passes or not.

Vice Chair Brown suggested a motion to support the second version of the 1041 regulations with the caveat of having appropriate definitions in place.

Chair Hart questioned how the Board could define appropriate definitions, particularly as they will not be seen until they are being presented to Council.

Gavaldon expressed concern about staff seeking input on a version of the regulations that is not the one to be presented to Council.

Longstein clarified Council directed staff to request input on policy direction from Boards and Commissions. He noted Council, as the ultimate decision maker, wants to hear from Boards and Commissions regarding whether 1041 regulations are desired, or which elements thereof may need further study.

York stated he has a proposal for two potential motions, one that the Board would like to see inclusion of a list of definitions in any proposal moving forward, and one that the Board supports the idea of a 1041 review and regulation process, but does not have enough details to support or not support the specifics at this point.

Chair Hart made a motion that the Transportation Board supports the idea and intention behind the 1041 regulation process, and has further considerations regarding the specifics of that proposed policy, but generally supports the

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process. York seconded the motion.

Gavaldon asked if Chair Hart would be willing to include definitions and other pertinent items. Chair Hart replied in the affirmative and stated he was planning to make that as a second motion.

Gavaldon stated he could not support this motion as stated.

Chair Hart stated he is open to amending his motion to add ‘such as wanting specific definitions for natural resources.’

Dyrdahl expressed support for the original motion as there are likely specifics other than the definitions that will likely be needed.

Peyronnin concurred the original motion wording is appropriate and allows for more flexibility in a second motion.

The vote on the motion was as follows: Yeas: Dyrdahl, Blochowiak, Brown, Peyronnin, York, and Hart. Nays: Gavaldon.

THE MOTION CARRIED.

York made a motion that one of the specifics the Board would like to see in the 1041 process moving forward is a list of definitions. Blochowiak seconded the motion.

Chair Hart stated he would like to see the motion better defined in terms of what specific definitions are being sought. He stated he would like to see a definition of natural resources.

Gavaldon expressed concern about having two separate motions stating one concise motion would have been more meaningful.

York suggested multiple motions provide a more nuanced look at how members supported, or did not support, various aspects.

Gavaldon expressed concern multiple motions show fragmentation.

York stated fragmentation is not necessarily a bad thing and the point of the Board, as it is non-quasi-judicial, is to provide input from citizens of various aspects of the city and ensure Council hears from all of them.

Vice Chair Brown suggested an amendment to the motion to add ‘including a clear definition of natural resources’ at the end.

Chair Hart stated his main concern is that there may be other definitions needed; however, the Board will not be able to see the third draft of the regulations prior to the item going before Council. He suggested the motion amendment be clearly worded to clarify the Board would like to see definitions for certain items, and anything not mentioned does not mean it is accepting of definitions as they appear.

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Vice Chair Brown suggested adding the following language to the end of the motion: including a clear definition of natural resources, in the interest of creating clear standards for developers while balancing the protection of natural areas, or ecology, in Fort Collins.

Peyronnin stated a clear glossary of critical terms that are going to be used in the final document will be important and suggested calling out specific words that need to be defined may lead to a lack of flexibility.

Vice Chair Brown suggested adding the following language to the end of the motion: of critical terms such as, but not limited to, natural resources, in the interest of creating clear standards for developers while balancing the protection of ecology in Fort Collins.

Peyronnin supported the language.

York accepted the addition as a friendly amendment and restated the motion as follows:

York made a motion that one of the specifics the Board would like to see in the 1041 process moving forward is a list of definitions of critical terms such as, but not limited to, natural resources, in the interest of creating clear standards for developers while balancing the protection of ecology in Fort Collins. Blochowiak seconded the motion.

Gavaldon requested a friendly amendment to replace the word ‘developers’ with ‘applicants.’

Members concurred with the suggestion and York and Blochowiak accepted the amendment as friendly.

Gavaldon stated he could support the motion.

Longstein suggested replacing ‘applicants’ with ‘permit applicants.’

Gavaldon opposed the inclusion of the word ‘permit.’

Vice Chair Brown noted all applicants in the 1041 process would be applying for a permit. Longstein confirmed that is correct.

York stated he will not accept the inclusion of the word ‘permit’ in the interest of moving forward.

The vote on the motion, as amended, was as follows: Yeas: Dyrdahl, Gavaldon, Peyronnin, York, Brown, Blochowiak, and Hart. Nays: none.

THE MOTION CARRIED.

Chair Hart asked if members have other comments they want to ensure are documented.

Gavaldon requested the Board receive a copy of the document that ultimately goes to Council. Iverson replied he can provide that when the packet gets published.

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Longstein asked if the minutes from this meeting will be approved in January. Members replied in the affirmative and Iverson noted the meeting will be January 18th. Longstein stated his Council material is not due until the 24th.

Vice Chair Brown thanked Longstein for his presentation.

Longstein thanked the Board for the rich discussion and stated he is happy to meet with members one-on-one.

8. BOARD MEMBER REPORTS

Peyronnin stated he will miss York and his knowledge base. He noted he also serves on the Bicycle Advisory Committee as a representative from CSU.

Gavaldon questioned whether Peyronnin should be serving on both the BAC and the Transportation Board. Iverson replied Peyronnin went through the appropriate process and his appointment to the Transportation Board was approved by Council with the knowledge of his BAC role.

Gavaldon reported on the recent Planning and Zoning Commission work session during which a multi-family development near Poudre High School, Seven Generations Multi-Family, the Landings development on the north side of Vine Drive, and the Castle Ridge Group Home was discussed. He noted the Board should have received the former Hughes Stadium property update from Iverson. He stated he would like to ensure the Board is fully engaged in that topic.

Gavaldon discussed issues with Transfort not providing rides after late CSU football games and noted Drew Brooks informed him Transfort did not receive any funding from the CSU athletic department to pay for that extra staffing. He suggested Transfort perhaps should have sought funding from the CSU administration and additional work should be done on the issue for next season.

Gavaldon noted the Clerk's Office verified the petition addressing the newly adopted Land Development Code has received enough signatures to move forward to Council.

Gavaldon commented on Raising Cane's seeking to build a new restaurant at the Pobre Pancho's location and noted they are being very conscious of the potential traffic impacts at that location.

Dyrdahl commented on Council's consideration of the Active Modes Plan and commended the staff presentation on the item

Chair Hart commented on debris in bike lanes and his two-and-a-half-hour commute on Transfort from CSU to southeast Fort Collins. He noted that distance could almost be walked in that time and he stated Transfort is unable to provide adequate service that allows people to choose not to have a personal vehicle. He stated more work needs to be done to prioritize routes that get the breadth of the city.

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York reported on attending the North Front Range Metropolitan Planning Organization's citizen advisory committee meeting which involved a presentation from CDOT discussing how the Transportation Commission supports elevating the needs of bicyclists and pedestrians in the planning, design, and operation of transportation facilities as a necessary component for all projects moving forward. He encouraged the Board to continue to think about transit issues locally and suggested the conversation needs to extend to a regional level at some point. He noted he will begin serving on the Planning and Zoning Commission in January.

Chair Hart thanked York for his service.

9. OTHER BUSINESS

a. Bicycle Advisory Committee Report

In Owens' absence, Peyronnin provided the BAC report noting the Committee discussed its work plan and received a presentation from People For Bikes which has recently downgraded Fort Collins from first or second in the country to 43rd in terms of bicycle-friendliness. He noted the rating methodology has changed which led to that downgrade. Additionally, the Committee received a presentation on bicycle safety enforcement and discussed the new safety stop law and the Vision Zero Action Plan.

Gavaldon suggested the Transportation Board may want to receive the intersection presentations Dave Dixon provides to the BAC.

Chair Hart stated he believes Owens will remain as the BAC liaison for another year and asked if any members are willing to take on the Planning and Zoning Commission liaison role, which he noted is not a directive but rather an idea the Board had to increase interconnectivity between the Boards and Commissions.

Gavaldon commented on the importance of the Planning and Zoning Commission liaison role.

York noted the liaison attends the Planning and Zoning Commission work sessions, not the actual hearings.

Chair Hart noted new Transportation Board members will be starting in January and suggested the decision regarding the liaison could be made following that time.

b. City Council 6-Month Calendar Review

Iverson noted Council will be considering North College, DDA alleys, 1041 Regulations, the Vision Zero Action Plan, the North College BRT MAX study, and transit and downtown parking in the coming months.

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c. Staff Liaison Report

Iverson thanked York for his service on the Board and his volunteer work with FC Moves.

10.ADJOURNMENT

The meeting adjourned at 8:53 p.m. by unanimous consent.