



City Clerk
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fcgov.com/cityclerk

MEMORANDUM

DATE: December 14, 2023

TO: Honorable Mayor and City Councilmembers

FROM: Anissa Hollingshead, City Clerk

RE: **Presentation to the City Council of the Certification of Sufficiency of the Petition Effort Against Ordinance No. 136, 2023**

Attached to this memo is my certification of the sufficiency of the petition for referendum submitted against the going into effect of Ordinance No. 136, 2023.

BOTTOM LINE

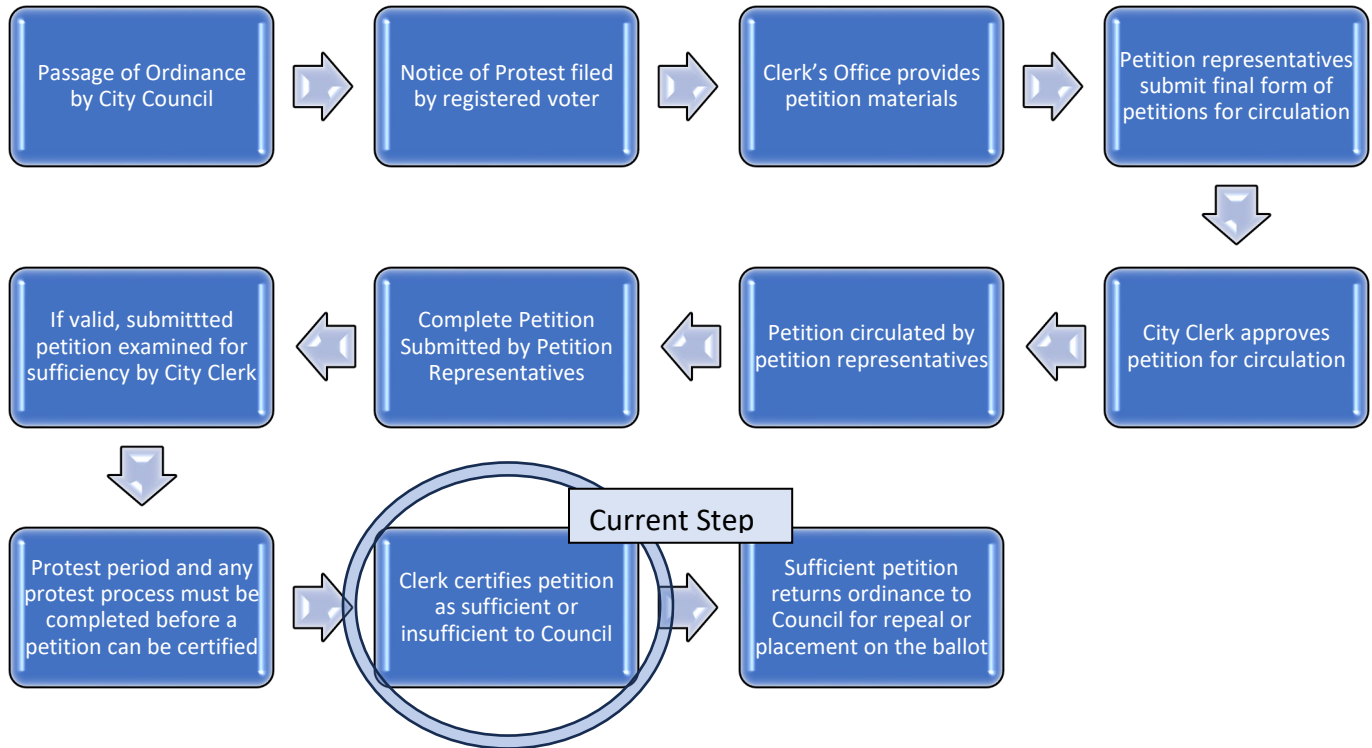
Examination of the Petition was completed and a finding of sufficiency made on December 5, 2023. That finding was subject to a protest period, during which a protest of the finding was filed and subsequently heard before a hearing officer on December 13, 2023.

The Protest of the Finding of Sufficiency has been heard and a decision issued with no change to any signatures as examined. Therefore, the petition must be certified by the City Clerk according to the findings made upon the Clerk's examination and the hearing officer's decision. The petition is being certified and presented to the Council as sufficient. The attached certificate is the final determination as to the sufficiency of the petition.

The operation of Ordinance No. 136, 2023 is now automatically suspended. Once the City Clerk certifies the petition as sufficient for referendum, this occurs automatically pursuant to Article X, Section 2(e) of the City Charter.

The certified petition will be presented to Council at its next meeting on December 19 for further action. Council must reconsider Ordinance No. 136, 2023 at the December 19, 2023 Regular Council Meeting, and may either repeal the ordinance or refer it to a vote of the registered electors at the next regular or special municipal election held for any other purpose. If Council chooses to refer the ordinance to the voters, it may also choose to call a special election for that specific purpose. However, in the event a special municipal election is called for on a date prior to the date Council originally sets this matter for, the Ordinance must instead be submitted to the voters at such earlier special election.

OVERVIEW OF REFERENDUM PROCESS



Current Step of Referendum Process

Determination of Sufficiency

By the conclusion of the examination period, which ended Tuesday, December 5, 2023, at 5 p.m., the City Clerk must make an initial determination of the sufficiency of the petition. To have been deemed sufficient, the petition must have included at least 4,228 verified signatures of registered Fort Collins voters.

The City Clerk issued a Statement of Referendum Petition Sufficiency on December 5, 2023, finding after examination the petition included 5,776 valid signatures. This initial determination of whether a petition is sufficient or insufficient is subject to protest and cannot be certified until the expiration of the protest period or the end of any protest process.

Protest Process

Filing a Protest

Registered electors who want to protest a determination by the City Clerk that a petition is either sufficient or insufficient may file a written protest, under oath, in the office of the City Clerk within ten (10) days of the filing of the petition. The City Charter provides a protest shall set forth with particularity the grounds of protest and the names and defects in form protested. A protest was filed on Wednesday, December 6, 2023, by Fort Collins registered voter Lisa Cunningham.

Conducting a Protest Hearing

Upon the filing of a protest, the City Clerk is required to set a time for hearing the protest to be held within seven days. Notice requirements include mailing a copy of the protest with a notice of the time for the hearing to all designated petition representatives at least five days prior to the hearing.

- All hearings are before a hearing officer appointed by the City Manager.
- The hearing officer has the power to issue subpoenas to compel the attendance of witnesses and the production of documents.
- All records and hearings are public, and all testimony must be under oath.
- A protest hearing is summary in nature.
- The hearing process must be completed within 30 days after the petition is filed.
- Results must be decided and certified by the hearing officer within 10 days after the conclusion of the hearing.

The protest hearing was set for Wednesday, December 13, 2023, at 9:30 a.m. in Council Chambers at City Hall. Geoff Wilson, attorney with Wilson Williams LLP, was appointed to be the hearing officer. The hearing was held at this time as a public hearing the public was welcome to attend, however no public comment or testimony was taken. At the conclusion of the hearing, the hearing officer took the matter of the protest under advisement.

Issuance of Decision by Hearing Officer

Hearing Officer Wilson issued a decision on December 14, 2023, dismissing the protest and finding no changes to the signatures as verified by the City Clerk.

Certifying Sufficiency Following a Protest

The City Clerk must make a final determination regarding the sufficiency or insufficiency of a petition based upon the determination of the protest hearing results certified by the hearing officer. On this basis, this final determination is being made at this time that the petition is sufficient, and this finding is being certified and presented to City Council. This results in the following steps:

1. Automatically suspending the operation of the ordinance subject to the petition.
2. The Council must reconsider the ordinance at its next regular or special meeting, which will be the December 19, 2023 Regular Meeting. If Council does not repeal the ordinance, it must refer the ordinance to the voters at the next regular or special municipal election scheduled for any other purpose. If a decision is made to refer the ordinance to the voters, Council may choose to call a special municipal election for that purpose.

Communications and Updated Information on the Referendum Process

As has been the case throughout the referendum petition process, updates on significant process steps are being provided to City Council as well as being posted on the referendum page of the City website, fcgov.com/elections/referendums. The protest hearing that occurred on December 13 was recorded, and the video for that recording is available for viewing from a link on that page as well.

Attachment being provided with this memo:

1. Certification of Sufficient Referendum Petition

cc: **City Manager Kelly DiMartino**
 City Attorney Carrie Daggett
 Deputy City Manager Tyler Marr
 Assistant City Manager Rupa Venkatesh
 Assistant City Manager Denzel Maxwell



FINAL CERTIFICATION OF REFERENDUM PETITION SUFFICIENCY

I, Anissa N. Hollingshead, City Clerk, do hereby certify that:

1. On November 28, 2023, petition representatives Ross Cunniff, Dawn Cramer and Melissa Abrams submitted a petition requesting that Council repeal Ordinance No. 136, 2023, or refer such ordinance to the registered electors of the city; and
2. A referendum petition must be signed by registered electors of the city equal in number to at least ten (10) percent of the total ballots cast in the last regular city election; and
3. The number of signatures of registered voters who live within the Fort Collins city limits required for said petition to be sufficient is 4,228; and
4. Upon examination of the petition, I have determined that the petition contains 5,776 valid signatures, and the petition is therefore sufficient to require further action by the Council; and
5. This determination of sufficiency was subject to protest within ten (10) days of the filing of the petition, which deadline was 5:00 p.m. on December 8, 2023; and
6. A protest was filed on Wednesday, December 6, 2023, by Fort Collins registered voter Lisa Cunningham of the finding of sufficiency; and
7. A protest hearing was scheduled and held on Wednesday, December 13, 2023, before Geoff Wilson, hearing officer appointed by City Manager Kelly DiMartino, at the conclusion of which Hearing Officer Wilson took the matter of the protest under advisement; and
8. Hearing Officer Wilson decided and certified the results of the hearing on Thursday, December 14, 2023, determining the protest hearing did not result in any changes to the signatures as examined by the City Clerk; and
9. The results of the hearing therefore do not change the determination of sufficiency made on December 5, 2023, and I have made a final determination the petition is therefore sufficient to require further action by the Council

Signed this 14th day of December, 2023.



A handwritten signature in cursive script, appearing to read "Anissa N. Hollingshead".

Anissa N. Hollingshead, City Clerk