

MINUTES

CITY OF FORT COLLINS BOARDS AND COMMISSIONS

City of
**Fort
Collins**

Commissions

Air Quality Advisory Board REGULAR MEETING

Monday, July 17, 2023 - 5:30 PM

222 Laporte Avenue, Colorado River Room

1. CALL TO ORDER: 5:33 PM

2. ROLL CALL

- a. Board Members Present -
 - Mark Houdashelt (Chair)
 - Greg Clark (Vice-Chair)
 - Gavin McMeeking
 - Dan Welsh
 - Wayne Chuang
 - Maria Moore
 - Matt Ayres
- b. Board Members Absent -
 - Greg Boiarsky
 - Sandra LeBrun
- c. Staff Members Present -
 - Cassie Archuleta, Staff Liaison
 - Kirk Longstein, Senior Environmental Planner
- d. Guest(s) -
 - Tim Gosar

Roll call included introductions from new members Maria Moore and Matt Ayres.

- Matt Ayres is a recent CSU graduate. His main interest is political science with a focus on environmental policy.
- Maria Moore currently owns a business that includes indoor air quality inspections.

3. AGENDA REVIEW

No changes.

4. CITIZEN PARTICIPATION

Tim Gosar, Steering Committee member of Larimer Alliance, provided comments regarding proposed updates to the City's reverse setback standards for oil and gas operations. He noted that:

- Biggest chunk of poor air quality in Fort Collins comes from oil and gas.
- For setbacks, it should not matter who got there first (e.g., operator or residential developer).
- Advocated for reverse setbacks that have no variance opportunities.

- All wells leak over time, and 500' is not protective enough. 2000' should be the standard.
- Sampling should be considered up to 2000'.
- 150' is not protective enough for abandoned wells.
- Disclosure notification window of 30 days is not sufficient.
- Requested additional definitions in code draft.

5. APPROVAL OF MINUTES

- a. Dan moved and Mark seconded a motion to approve the May minutes as amended. Motion passed 3-0-3 (3 abstained as they were absent).

6. UNFINISHED BUSINESS

- a. Cassie will provide more information regarding badges prior to next meeting.
- b. There is a volunteer engagement event scheduled on August 26 at the Lincoln Center.
- c. Mark commented that sustainable revenue conversation has recently begun including aquatic facilities, and he has spoken at City Council meetings. He is concerned that City staff are doing a sales pitch and asking for advocates rather than collecting input on alternatives. Still pushing for a dedicated sales tax for climate initiatives.

7. NEW BUSINESS

a. Oil and Gas Operational Standards (Operations at Existing/New Wells)

Cassie Archuleta, Air Quality Program Manager, provided an update regarding current oil and gas operations and potential for additional regulations in Fort Collins in advance of a Council Work Session scheduled for September 12, 2023.

Overview:

- Cassie is supporting conversations regarding regulations at existing wells, and Kirk is supporting policy questions regarding land use, approvals for new wells, and new development near existing wells.
- Following the adoption of SB-181, the regulatory landscape has changed. There are new State rules, and new opportunities for local regulations regarding operations.
- Since adoption of SB181, the City has actively participated in State rulemakings in efforts to strengthen State requirements and identify and fill any gaps in regulations.
- The City also adopted new rules regarding locations of new wells that highly restrict any new development.
- In April 2023, City Council directed staff to further discuss additional local regulations for operations of oil and gas wells, and staff is scheduled to return to Council on September 12.
- The City hosted a City, County and State panel describing the new regulatory environment to support advocacy group requests for more time to help with understanding of current code. Recording is available at fcgov.com/oilandgas.
- Existing wells include 10 active wells in Fort Collins. Summaries were provided regarding current regulations and enforcement activity, which has included an order from the Energy and Carbon Management Commission (ECMC) to shut-in some of the wells (due to new ECMC requirement that restricts flaring), and

increased leak inspection resources. Additionally, the CDPHE is currently working with the operator on a settlement agreement due to compliance issues.

- State regulations continue to be updated and enhanced. Effective City activity has included supporting the State and County in enforcing existing regulations.
- The City and County are also exercising new authority to request that low- or non-producing wells be plugged and abandoned.
- The City is also exploring options with the County that expand regulations to incorporated parts of the County where oil fields overlap between the County and city. This would mean that local wells are subject to County requirements for annual operator registration and provision of emergency management plans.
- No new regulations have been identified that would speed the path towards eliminating current and future impacts from operational wells.

Discussion:

- There was some discussion about whether the City could adopt new regulations that would apply to existing wells, or whether the wells would become legal non-conforming uses. For County rules, most operational requirements are triggered by new permits.
- There was some discussion about air quality monitoring, and how the City and County are collaborating to provide fenceline VOC monitoring near the Fort Collins oil and gas sites. This would be an indicator of potential compliance issues related to leaks and would be used to alert State and County inspection and enforcement resources.
- It was noted the AQAB has previously submitted recommendations to Council regarding the need for additional local regulations, and it was requested that AQAB recommendations be explored more substantially, indicating why they are not necessary for Fort Collins.
- Financial assurance requirements were discussed as an example. Tim was invited to speak and recommended that the City adopt full cost bonding. Cassie commented that a Financial Assurances Plan has been approved for the Fort Collins operator through the ECMC and includes ~\$100K coverage per well, which is sufficient per City estimates.
- There was some discussion about whether the City should adopt redundant regulations even if duplicative of State. It was suggested that it is best to enact additional recommendations even if redundant. Cassie commented that staff had approached the regulatory environment looking to fill gaps, not provide redundancy, which was accomplished primarily through updated State regulations.
- It was re-iterated that some members of the AQAB were interested in redundancy of regulations, with expansion of regulations where possible. This was largely due to distrust of the State and County. There was no interest in revisiting AQAB recommendation without further evidence that State regulations are comprehensive and effective. Previous recommendation indicated that, given the history of State/County inaction or its slow pace of action in this arena, the AQAB feels that the City would be better protected by having local control measures available in these areas.
- There were some questions about why regulations for new wells would be considered when there didn't appear to be any opportunity for new wells. A Board member replied that additional regulations could be an insurance policy, regardless of whether such regulations would necessarily be used.

b. Oil and Gas Reverse Setbacks (New Development Near Existing Wells)

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Kirk Longstein, Senior Environmental Planner, provided an overview of reverse setbacks from operational wells and was seeking a Board recommendation.

Overview:

- Reverse setbacks are distance of a new development application (e.g., homebuilders and developers) from an existing oil and gas well.
- The City first adopted reverse setbacks in 2013 (350') and updated them in 2018 (500'). In 2021, ECMC (formerly COGCC) updated setbacks for new wells to 2000', prompting the City to consider updates to local code to align with ECMC code.
- Current ordinance requires testing around abandoned, reclaimed wells, including groundwater and soil gas monitoring, if the developer is approved for a variance to reduce setbacks to 150'.
- Proposed updates address issues with setbacks being expanded beyond arterial roads, and addressing more than just residential properties, and adding more consistent requirements for monitoring.
- Proposed standards include 2000' for active wells (producing and injecting), 500' for inactive wells that have not been fully reclaimed, and 150' for reclaimed inactive wells. Additionally, 5 years of monitoring would be required if not active, but not fully reclaimed, and 1 year of monitoring if fully reclaimed.
- New code would also restrict occupiable secondary structures, such as ADUs, within reverse setback buffer.
- Disclosures are required for any potential home purchase no later than 30-days before the closing date for a transaction.

Discussion:

- There was some confusion about the terminology and whether it was different in Kirk's presentation than in the proposed code. Kirk clarified that City code uses different terminology than the ECMC, clarifying that he proposed code distinguishes between whether a well has been fully reclaimed per City code requirements or still requires reclamation.
- There was a question about whether a 150' setback for a fully reclaimed (plugged and abandoned) well was sufficient to protect health and safety. Kirk responded that degradation of the well is a concern, but research has suggested this is sufficient, especially if sampling shows no evidence of contamination. The City has been collecting monitoring samples at wells near new developments and to date has not identified contamination due to oil and gas operations.
- Interest was expressed in a tracking system that identified all wells within City limits, and a question was posed about whether there was a risk of undiscovered wells. Cassie responded that wells identified within City limits had been reviewed in a cursory way. It was recommended that the City undertake additional efforts to ensure more safety with plugged and abandoned (or orphaned) wells, as they are abandoned and potentially forgotten.
- There was some discussion about disclosure requirements for rentals and real estate transactions and whether 30 days is sufficient. A suggestion was made to include notification as a requirement in a seller disclosure. Several Board members expressed interest in longer time periods. Kirk clarified that notification requirements were only for sale, or lease, for new developments and not rentals. The code's intent is to include sales of existing homes within the buffer as well, and the Code will be updated prior to Council's first reading to clarify this intent. There was discussion about similarities with disclosures for radon levels, which

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as a negotiation point in home sales.

- Question was asked about what happens when plugged and abandoned wells start to fail. Could monitoring be required in perpetuity? Kirk replied that no contamination has been found to date with monitoring that has been conducted by developers since sampling requirements were first implemented in 2018. Some of the wells sampled date back to early 1900s, with no new wells drilled since the 1990s. If monitoring extended beyond the current Code's 5-year construction guarantee, the burden would be placed on the property owners, not the developers. Kirk explained that the intent of the Code's disclosure requirement is to give future homeowners the choice to continuing monitoring but not to regulate future monitoring into perpetuity.

8. BOARD MEMBER REPORT

- Dan shared that the CDPHE is working toward involvement/engagement/support of the UN's Environment Program, and the International Day of Clean Air for Blue Skies is Sept 7th (<https://www.cleanairblueskies.org/>). If the City or any of you would like to take part or support this effort, please let me know (dan.welsh@state.co.us).

9. STAFF REPORTS

- None

10. OTHER BUSINESS

- Agenda planning: August meeting will include discussions with Councilmember Pignataro and potential to discuss recommendations for oil and gas issues.

11. ADJOURNMENT

- (8:20pm)

Minutes approved by a vote of the Board on 8/21/2023