



David Katz, Chair  
Julie Stackhouse, Vice Chair  
Michelle Haefele  
Adam Sass  
Ted Shepard  
Samantha Stegner  
York

Virtual Hearing  
City Council Chambers  
300 Laporte Avenue  
Fort Collins, Colorado

Cablecast on FCTV, Channel 14 on Connexion &  
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**Regular Hearing  
April 26, 2023**

**Chair Katz called the meeting to order at 6:00 p.m.**

**Roll Call:** Haefele, Sass, Shepard, Stackhouse, Stegner, York

**Absent:** Katz

**Staff Present:** Frickey, Sizemore, Claypool, Yatabe, Axmacher, Dial, Daly, Potyondy, and Manno

Vice Chair Stackhouse provided background on the Commission's role and what the audience could expect as to the order of business. She described the role of the commission, noting that members are volunteers appointed by City Council and that they are not staff and do not get paid. The Commission members review the analysis by staff, the applicants' presentations, and input from the public and make a recommendation of approval or not of approval to Council for their consideration. She noted that this is not a quasi-judicial hearing.

**Agenda Review**

None noted.

**Public Input on Items Not on the Hearing Agenda:**

None noted.

**Consent Agenda:**

None noted.

**Public Input on Consent Agenda:**

None noted.

Vice Chair Stackhouse did an overview of the process for the discussion item on the agenda.

### **Discussion Agenda:**

### **3. Water Adequacy Determination Code**

**Project Description:** This is a request for a recommendation to City Council regarding proposed Land Use Code changes to add specific regulations outlining how the City will make a water adequacy determination for new development. The regulations are divided into three different categories, one for Established Water Providers, one for new providers and one for non-potable providers. The goal is to comply with Colorado state statute (Section 29-20-301, et seq., C.R.S.) and to make sure development has the necessary water supply.

### **Recommendation: Approval of the proposed Land Use Code changes**

Secretary Manno reported that communications from stakeholders at Bloom, ELCO, FCLWD and Montava had been received and are included in the packet starting on page 54. And that a third correspondence from ELCO has been submitted but is not in the current published packet and that it will be included in a later version as well as a presentation from Montava.

### **Staff and Applicant Presentations**

Planner Axmacher gave a brief verbal/visual overview of this project.

### **Public Input (3 minutes per person)**

Steve Bushong, Law Firm of Bushong and Halleman, representative of Montava along with Dick Wolf of Leonard Rice Engineers. They were granted 15 minutes of speaking time and spoke to the groups concerns with the Water Adequacy Plan. They feel an augmentation plan would be efficient and that over appropriation of systems has happened over time. We keep finding new ways to develop water. For Montava they landed upon an augmentation plan. The system planned for Montava is not a unique system. Montava supports the staff and the Commission's effort to get this code in-place, but they want to make sure it is right, but not rushed. They are committed to being a partner in this process. The primary concern is that the code is giving the established potable water supply entities greater control and authority than they have, and these entities may not have the same incentives to approve new water supplies. Even when they may be more reliable or economical. Affordable housing requires affordable water. Please take the time to get it right!

Mike Scheid, General Manager for the ELCO Water District, supports the requirements stated 3.13.5(C)(5) of the City's proposed water adequacy rules.

Chris Pletcher, General Manager for the FCLWD, the District strongly supports 3.13.5(C)(5).

Max Moss, Montava, spoke generally about the Montava plan.

### **Staff Response**

Assistant City Attorney Potyondy spoke to provision, the requirement to exclude from the established service providers or gain consent. With the Water Adequacy Determination discussions, it was determined that this needed to be decided upon by City leadership. The staff recommendation is based in part on what could be discerned from previous City policies, respecting the boundaries of the neighboring water providers and in part based on City code language that Mr. Bushong referenced, Section 26-4. Under which the city agrees to not extend water or wastewater service into the service areas of duly established areas of districts. It is correct that the City can waive and not follow this provision if the districts are providing an unreasonable level of service to the property. Historically this has not been used. This could be incorporated into the code. It is primarily an issue that needs a

decision on now that there are being proposed alternative water supplies that could potentially disrupt well established service area boundaries amongst the water providers.

Planner Axmacher commented that with the timing issue it is the City's best interest to get the code updated and try to meet the deadline to be able to go back to the water court judge and tell him that we have made progress.

Attorney Yatabe asked when the proposed trial date is set. Attorney Potyondy responded that the trial date that will be set at the June 1<sup>st</sup> status conference will be set in late 2025. Detailed reports will need to start circulating 8-9 months beforehand. The risk is that the city and the roughly twenty-five others working on the case could be working on one version of the Montava augmentation plan only to have it change significantly based on what results from the water accuracy determination.

## **Commission Questions / Deliberation**

### **Commission questions**

1. Autonomy of special districts with the State mandate from the municipality to make the adequacy determination.

Member Shepard asked, for clarification, the staff report contained references to not comply with those or are we preempted to use our home rule status? Attorney Yatabe responded that the water adequacy determination is really matter of State interest. He believes we are required to do the process up to this point. Also, since much of the area is provided for by Fort Collins Water Utilities. He feels what was worked on with staff is that there is some latitude within the statute. For example, the point at which that determination is made and some of the details of how water adequacy is determined is left to the local government entities.

2. To require exclusion or consent from the established potable water entities or other potable water entities to operate within their service area.

No questions.

3. Establish potable water and reviewing of resource information.

No questions.

4. Evaluation of water supplies to ensure that they will be adequate for our community members for the lifetime. Is there any additional information the city could require?

No questions.

General clarifying questions from Commission members.

Member York, 3.13 and 3.12 is going to be held for which? Planner Axmacher responded that this is new Section 3.13 and that 3.12 is being held for oil and gas.

Member York asked if there were other types of utilities that must provide a letter of adequacy or will serve letter in our GMA area? Planner Axmacher responded, none that she was aware of.

Member Shepard, Does the PUC come into play at all with what the Commission is discussing? Planner Axmacher is not aware of anything. Attorney Yatabe was also not aware the PUC plays into this as information otherwise. They do not play into it as our Fort Collins Water Utility. Water Engineer Daly responded that he agrees with Mr. Yatabe that he does not think that Public Commissions play a role with water providers here.

Member Shepard, reading the overall attempt, he is under the impression that there are two water providers in the city that do not have water treatment plants. If a new subdivision were to come in and those service areas, would they be able to meet the requirements of proposed 3.13, by not having their own water treatment plant? Planner

Axmacher responded that having a water treatment plant is not a requirement, but that we would want to make sure that the water was of an acceptable quality wherever they are getting it from.

Member Sass commented that our three requirements, the two letters and something else would be required for them to go ask wherever they are getting their water from. Is this where the letters come in that would be reviewed? Planner Axmacher responded yes, the districts two options; they can either provide copies of a water supply plans that meets the requirements that are outlined, or they can submit a letter from a professional engineer or supply expert that outlines the resources that they are using for their water. The second letter is the normal will serve letter. Once reason for the alternative is take into account that smaller districts may not have a water supply plan.

Member Shepard asked if it was anticipated that satisfying the requirements of the proposed 3.13 inside the Fort Collins Utilities Service territory would require the developer to rely on a consultant? Planner Axmacher responded, not within an established service provider area because they are already providing will serve letters now and the proposed process keeps this similar requirement.

Member Shepard asked if it was anticipated that the providers establish a standard will serve letter, or is it on a case-by-case application by application basis? Planner Axmacher responded that she believed the districts provide consistent letters within their own district, but not consistent across districts. This code is looking to create consistency and staff would be happy to work with the districts if a template is sought after and that would try to meet everyone's needs.

Section 3.13.(C)5(C) clarifying comments.

Vice Chair Stackhouse understands the basis for 3.13.5(C)(5). It is her understanding there are other situations in the State that are similar to what is being proposed by Montava. As part of this process, did we look at the language used by those other municipalities and is there a similar type of language that they use? Planner Axmacher responded that they could not find any other municipalities that have similar code language. The only place where they could find language to reference was La Plata County. Attorney Potyondy responded that he thought that it was clear that the proposed water supply that Montava is proposing to develop of relying on tributary ground water and using an augmentation plan as the legal vehicle is a fairly common situation throughout the State. What is a less common situation is the situation of a large-scale private water company within the boundaries of an existing water provider. Vice Chair Stackhouse commented that it was the letters that she was referring to and, in those situations, whether those municipalities have addressed or have a similar provision in their codes that address what the existing water provider has the ability to do.

Member Shepard asked to bring up the slide that had the picture of the boxelder watershed and the aquifer that would be tapped. He asked for more background on the 40% of what, the denominator, what is the numerator, etc. Mr. Wolf responded that what he was referring to is part of the historic irrigation on that property pumping from the wells that will serve the Montava development; that was the 40% reduction compared to what it was historically to what the future pumping demand will be for Montava. This information is to help show that this further supports the long-term sustainability aquifer, Montava's plan is not going to increase the draft on the aquifer, it will be reduced impact for future buildout. Member Shepard commented that this then gets to replenishment. Mr. Wolf: it is a reduction in the demand on the aquifer. Member Shepard asked how many acres the development owns. Mr. Bushong responded roughly 1,000 acres. The aquifer has historically been used for agriculture. Roughly 20 to 25,000-acre feet of pumping occurs for the aquifer.

Member Shepard commented that Mr. Moss made a comment "that the city took the water off the land." Was this a buy and dry, what happened there? Mr. Moss responded that Anheuser Busch has an agreement with the City in the form of a dedication to the City and that the City had an obligation to serve them that amount of water for 30 years and that 2,000 acre-feet could be used on this property. When they did the renewal of the agreement, they removed the right to use that water on the property by allocating it all to the plant. Clarification, the city removed.

Member Shepard asked where the ground water that will be pumped, be treated? Mr. Bushong responded that the Montava plan has two different well fields, one on Boxelder Creek and one on the west side of I-25. There will be a water treatment plant on the Montava property. The same ground water that has historically been used to irrigate the property that will then be used, treated, and delivered through in-house use only and then 95% of the water for

in-house use will come back through the Boxelder Sanitation District, the existing wastewater treatment plant for Boxelder.

Member Sass asked if there had been changes made to the draft. Planner Axmacher responded that she emailed the redlines at the same time the packet was released. Vice Chair Stackhouse clarified with Planner Axmacher that the Commission received two comment letters after the redlined language.

Planner Axmacher circled back regarding to the codes conversation commenting that she did pull up La Plate County's code and that they do have a provision, general requirement, "All proposed development within 400' of a watermain of a public water system or designated regional public water system shall connect to such system unless the applicable provider certifies in writing that the system lacks sufficient capacity to serve the proposed development or the connection would technically impracticable or the provider otherwise refuses to serve the proposed development".

Member York questioned the speed to which this proposal is moving, do we still have the same concern with the speed? Planner Axmacher responded that she did not know if she could answer the question other than that staff is doing the outreach that would have been completed given the same amount of time.

Member Shepard asked Mr. Pletcher if it was correct that he is asking for any land being removed that it is either consent by the district or it is removed. Mr. Pletcher responded that under Title 32 there is an exclusion process. A piece of property that would like to be excluded from the district must apply for the exclusion, give 30-day notice, and attend a public hearing, and then the Board evaluates and makes a decision. It is one in the same, it is a request and then an exclusion. Member Shepard asked if the decision of the Board appealable or is there an appeal process? Mr. Pletcher responded, not above the Board. Member Shepard asked if a decision could be appealed to the court? Mr. Pletcher responded that he would have to consult the attorneys.

Vice Chair Stackhouse asked Mr. Pletcher; when holding hearings and considering requests, how do you consider the cost factors in providing services, your cost versus what those that might want to find an alternative service? Mr. Pletcher responded that many of the costs that have been considered have been invested over the past 60 years to develop the infrastructure to make sure there are water tanks that are regional in nature to be able to serve that development. The costs are not just isolated to that parcel, they are the whole system. Vice Chair Stackhouse is seeking understanding for consumer cost effectiveness in an environment where you have an area that you serve, what incentives are there to be the most cost-effective provider? Mr. Pletcher responded that they have a long-term view, able to make investments in projects with a long view of the future based on the City's growth plans, anticipate where growth is happening and define the boundaries.

Member Shepard asked Mr. Pletcher at what point they put pipe into the ground? Mr. Pletcher responded that the philosophy is that growth pays its own way. The grided infrastructure to get water to the boundaries of the parcel is something that is planned decades in advance and size those pipes to make sure they can accommodate the planned use in that area and if they are not able to serve that land due to an exclusion, then they have invested in pipe size to get to that area of property that can never be used in that area. Member Shepard asked if a cost would be assigned to recover the sunk costs for anticipated service? Mr. Pletcher responded that they do evaluate the costs and them down to a number and compare it to the cost of maintaining that service versus the cost of being reimbursed for that service. Member Shepard asked if his or ELCO's district ever had an exclusion or de-annexation request come to the board? Mr. Pletcher responded that they have internally evaluated one. Mr. Scheid of ELCO responded that ELCO has not excluded much property and it is usually at the request of the property owner. ELCO has been working with the city to try to establish a service area boundary for over the last (+) years along Lemay. This is the only informal agreement and the only exclusion that can be thought of. A full analysis was not completed.

Member York asked about adding to areas as opposed to de-annexing, regarding special districts where some of them have spaces on the edge where they can grow, could the boundary be changed in this way? Vice Chair Stackhouse reframed the question to; Is there any land not covered currently by a water district? Mr. Pletcher responded not inside the city but next to the current boundaries for the current districts that are also included in the city. Member York wants to understand the infrastructure costs. Is it set now or is there potential for other changes that could happen? Mr. Pletcher responded that it is a geographic question if it were near those facilities that ELCO would have invested in the transmission line specifically, then potentially. But the sense is that any additional

property that could be included within ELCO service area that is also within the city is already in. Abutting GMAs are pretty well defined, like Timnath and Wellington unless they were to exclude from another municipality or water district and be included in ELCO. If this were the case, it would be on the fringe.

Member Shepard asked about ELCO's portfolio, if you do not have the portfolio and are relying on the developers to bring water rights, how do you know you can serve your whole territory? Mr. Pletcher responded that ELCO's policy has been that if you are going to add demand to the system, then you are going to add the supply required to meet that demand. Unlike the City of Fort Collins and Greeley, ELCO does not have the rich water right portfolios. It is subject to availability.

Member Haele asked if a new development proposing an augmentation scheme as their water supply, if that could be something that is added to ELCO's portfolio as a way of bringing a supply of water? Mr. Pletcher responded potentially, there is a lot to consider specifically regarding water quality, comingling, interconnects with sister districts in the sharing of transmission capacity. Member Haele commented that it would be fair to say that approving the Land Use Code changes before Montava in a general sense would then just be down to the specifics and this could be worked out case by case. Mr. Pletcher responded that there are a lot of questions that must be answered. Planner Axmacher responded that she did not believe it would preclude that.

### **Deliberation**

Vice Chair Stackhouse started with the two clear areas where a recommendation to Council is needed.

1. The speed at which the proposal is moving.
2. Provision 3.13.5(C)(5).

Member Sass asked about the language "at the director's discretion," and if the appeal process was still the same. Planner Axmacher clarified that language was added to remove these decisions from the normal appeal process. The reason is that these are very technical decisions in nature and that there is still an appeal process through the court. Staff feel this is a more appropriate decision-making body than City Council.

Member Shepard found that Attorney Potyondy's observation was persuasive in that there are multiple parties and strict rules with sharing information among the parties and that this can be time consuming. He agrees with Mr. Potyondy's response and the staff's position on the timing of this item. Member Sass respectfully disagrees. Member York is concerned with how fast this item has come through but knows this will become part of the Land Use Code and the Land Use Code is coming up for revision within the next few months. This gives us the opportunity to make corrections if needed. In looking at the redlines, they are not substantially different than they were before. Vice Chair Stackhouse confirmed with Member York that he is not concerned with the speed at which this item is proceeding. Member York confirmed.

Member Haele feels that she can go either way on the speed. She commented that on one hand if the first version is given a soft release, it would get some expected testing and some revision. On the other hand, if you know that it is not quite right or are concerned that it is not quite right then, the speed seems too fast.

Member Stegner agrees with Member Haele.

Vice Chair Stackhouse understands the pressure that city staff is under, but personally prefers more deliberation before implementing an item into code. It needs to be substantially ok. This leads to provision 3.13.5(C)(5). Hearing that there is similar language in code in another city, the more information is helpful. How do you keep cost effectiveness? What process is there when someone wants to opt out? She feels a little more time might be appropriate.

Member Sass commented that timing of when the adequacy determinations are made, he feels there should be more time spent understanding. Pulling these at the construction permit level seems late because developers are going to spend millions of dollars on building developments and then they may receive an adequacy determination that may not be in their favor. It could take months or years to get to the permit point.

Member York understands Member Sass's point, he believes that the city wants to be far enough in the process that the developers have already made sure that they have this in place so that they do not have to come back and that they should not move forward if they are not in the process of developing the supplies. Member Hafele agrees that this is the logical order in which someone would propose a development. Is water adequacy something that would be reviewed in a conceptual review stage? Member Sass responded, not according to the way it is outlined, it comes in the permitting level. Vice Chair Stackhouse commented that the commission would always encourage people to work with their water district starting at the conceptual review stage to understand the water resources they need for the proposed development. Member Shepard asked if the DCP is a deadline, can an applicant precede this at anytime in the process? Planner Axmacher responded that with the new redlines and updates from the prior code draft, this was addressed. This was happening too late in the process. Everything was moved up to final development plan or basic development review with the ability to request to defer later in the process. There is also an option for large scale development that has an approved ODP or PUD overlay to do the entire water adequacy review with the first phase of development at final plan. Member Shepard asked if there was a stand-alone water adequacy process. Planner Axmacher responded that it would need to go concurrently with final development or basic development plan, through the development review process. Member Shepard asked why this is such a concern, he agrees with Member Sass that no one is going to spend civil engineering and utilities plans if they do not have the water supply figured out. Member Axmacher commented that she believes it is helpful in make the decision to have the development review documents as part of the package as well as what has been approved. Member Hafele assumes that someone proposing a development, whether they are doing a formal determination with the city, has already completed their own internal determination and feels confident in what they bring. Is this a reasonable thing to assume? Planner Axmacher responded that she cannot speak for a developer, but she feels staff would agree. Planning Manager Frickey commented on the stand-alone water adequacy piece, this would be a difficult thing to evaluate. What plan would staff be reviewing against if there was a stand-alone request? It is a risk to the developer to have to go back during the PDP phase, staff cannot go back and ask for issue another water adequacy determination if the project is not substantially different.

Vice Chair Stackhouse asked Member Sass if this addressed his concerns. Member Sass feels this is fast.

Vice Chair Stackhouse recapped the three areas of deliberation.

1. Does the Commission believe that it is a condition that more time should be allocated to this for the sake of certainty that there is a shared understanding between all parties?
2. Section 3.13.5(C)(5), because the language is impactful to other applicants and whether the Commission is satisfied with the research that has been done on the language and understand the implication of it.
3. The timing of the adequacy determinations, to get to certainty that the language is well understood and shared.

Member Sass does not feel it is a bad time to have this, he just wants to make sure the Commission understands the ramifications of their decision.

Member Shepard is sympathetic to Member Sass's point. He is leaning toward the timing suggested by Attorney Potyondy. He commented that one area of conversation was the Commission recommend to City Council that they take extra time between first and second reading. This has been done before.

Attorney Potyondy spoke to the timing. The Water Court Judge has made clear that this is going to proceed forward irrespective of what the city does here. The judge indicated that he will set a trial at the next status conference and that the trial date will likely be in March of 2025. The major disclosure deadlines start coming due in June of 2024. The primary risk that the city articulated previously was that Montava, the city and the other parties could potentially be working on a version of the augmentation plan for over a year before it gets amended due to the water adequacy process. This could result in lost effort and time. Vice chair Stackhouse commented that she is not clear. If timing takes an additional month so that all parties have a chance to look at this carefully and fully appreciate the ramifications, this would be the right thing to do. Would a short amount of time make much of a difference? Attorney Potyondy responded that with respect to the risk of having the parallel court process and water adequacy regulations perhaps not, but at the same time, he is not looking forward to telling the judge it is not on track to get done when hoped. Member Sass asked for clarification on the June 1<sup>st</sup> date. Attorney Potyondy responded that progress will have been made certainly if it is approved on first reading and the second reading was pushed back more than the standard two-weeks. This would not be as big of a deal. Attorney Yatabe commented and made a

suggestion. With this currently set for May 16<sup>th</sup> Council first reading, the second reading would occur and the following regular meeting, June 6<sup>th</sup>. There is a possibility that the Planning and Zoning Commission could make a recommendation between the first and second reading. Staff at first reading could communicate to Council the substance of consternation over timing and the issues that the Commission is grappling with. Member Sass agrees and feels that they should not wait until the second reading. If the Commission understands that they send something to them stating that the Commission would like to have more review time to provide more constructive feedback. He would like further review time, another month.

Member Haeefe commented that the Commissions job on this evening is to send a recommendation to adopt or not adopt this code language. She does not see where the Commission has anything other than to request that the Council make space between the first and second reading for additional input.

Member York understands the timing concern. But feels it would be more of a deal if there was more that the Commission was concerned about with the language and there is only one section of code that is of concern. He feels the Commission could send it to Council stating the concerns and would like more people to weigh in on it. Member Sass commented that the Commission could go more into the specifics. He does not feel there is an affordable option. He would like to understand what other non-potable options are available that are not the traditional methods?

Vice Chair Stackhouse is hearing the general discomfort and a lot of process questions, but that there is a leaning toward making a recommendation that the City Council not adopt the code at this time and instead instruct for two things to occur:

1. Allowing parties additional time to review code language.
2. Instruct staff to continue studying section 3.13.5(C)(5) to weigh both the clear issues raised by water companies with the effects of benefits of competition and what that means and the implications of the language in the longer term.

Member Hafele commented that the Commission is making an assumption that everyone is concerned about 3.13.5(C)(5), and she is not necessarily concerned with this. This piece of code is intended to enable competing with other water sources. The situation right now precludes those. Planner Axmacher responded that with the current situation, we would not have anything to evaluate a potential new provider against in order to confirm the adequacy. Vice Chair Stackhouse spoke Section 26.4 the concept of "incapable providing a reasonable level of service." If the existing water company reviews a proposal, how do you define incapable of providing, she feels they are capable of providing. One may argue "provided at a cost-effective rate." She feels there may be very few situations where existing water companies would have any reason to approve these proposals and there is no appeal process. Member Sass asked what happens when a water district that is not the City of Fort Collins with their deep portfolio says you need x amount of dollars to provide water, what do we do as a city to stop this from happening if we do not put strong provisions in place to allow that developer who is going to build those homes to build an affordable home. We should not be considering water to be an unlimited resource.

Member York understands some of the concerns, but without concrete examples of something negative from this area, he sees it as a reasonable step forward to start with.

Member Stegner is back and forth, but the concern is timing. She is leaning toward more time.

Member Shepard appreciates Member Sass's perspective in the cost of not only the tap but bringing the raw water equivalent or the cash in lieu of real water right in ELCO, that inconsistency is maddening. City Plan did not envision \$80,000 taps for a single-family detached home. Member Sass commented that it is now more than that in our GMA. This is concerning.

Member Shepard asked if is a circular argument if a developer seeks to go to a special district to be removed and gets denied by the Board, what happens then? Planner Axmacher responded that staff would not be able to approve their private proposal as adequate.

Member Shepard heard in the testimony from the water districts that neither the Special District Boards have an appeal process which is a system of governance that perhaps served us well during the dust bowl but does not

serve us well in this day in age. Member York commented that he thought the appeal process was to go before the court. Attorney Yatabe responded that this is a legislative matter, different than a quasi-judicial matter where you are more bounded. Mr. Pletcher responded that during the course of the discussion, they verified that there is an appeal process above the district Board, it goes to the Board of County Commissioners. He was not aware of this prior to this hearing. This was new information for all involved. The Commission agreed that this is a critical piece of information. Member Sass agreed that it addressed some of his concerns, but are we sure? Planner Axmacher responded that staff attorneys advised that there would be an appeal process likely through court, this is different than what they were suspecting. Attorney Yatabe has not researched this topic, in fact it was not on his radar to be prepared with an answer and does not know if Attorney Potyondy has researched this issue.

Member Shepard asked that if knowing we have this information about an appeal process for the Special Districts, would this factor into any code revisions that staff would contemplate? Planner Axmacher responded that it provides a better understanding of the alternatives should a district not consent and that it might not be an absolute end to the process because it could be appealed and at that point it could be deemed adequate depending on the outcome of that appeal. Member Shepard asked if a Board of County Commissioner decision can be appealed in a 106 District Court. Attorney Yatabe responded that it could depend on the nature of the action. Rule 106 action is for a quasi-judicial decision, he is guessing this might be, but he has not dug into the specifics of the nature of the decision.

**Member Stackhouse made a motion that the Planning and Zoning Commission recommend that City Council not adopt the Proposed Water Adequacy Determination Amendment to the Land Use Code to:**

- **Provide additional time for stakeholders to fully review Code language, especially with respect to timing of a water adequacy determination.**
- **Instruct staff to continue study of Section 3.13.5(C)(5) of the proposed Code to fully understand the ramifications of the language, for both water providers and potential applicants, and especially with respect to the applicant's ability to appeal a determination of a water supply entity.**

**Member Shepard seconded.** Member Shepard thanked staff for their hard work under a deadline and that he learned about the appeal process. He supports the motion. Member York thanked everyone who came out and provided input. Member Sass thanked everyone who worked with this, he hopes that his concerns are not seen in a negative light and encourages people to participate. Member Haefele supports the motions because she agrees that having more time to review is important but feels these code changes help facilitate different innovative uses or sources of water while also still protecting entities that have some long-established investments in providing water. She does not have the concerns but agrees that water is the most confusing bit of the law. Vice Chair Stackhouse thanked everyone that came out. Knowing what it means is beneficial to everyone. We want to find the balance between preserving the investments that have been made by water companies but also creating the right economic incentives. **Vote: 6:0.**

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For more complete details on this hearing, please view our video recording located here:  
<https://www.fcgov.com/fctv/video-archive.php?search=PLANNING%20ZONING>

#### **Other Business**

None noted.

#### **Adjournment**

Chair Katz moved to adjourn the P&Z Commission hearing. The meeting was adjourned at 8:18pm.

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*Minutes respectfully submitted by Shar Manno.*

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Minutes approved by a vote of the Commission on: June 15, 2023.

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Paul Sizemore, CDNS Director

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David Katz, Chair

DRAFT