



Thursday, May 29, 2014  
6:00 PM

Lincoln Center, 417 W Magnolia St.  
Fort Collins

**Joint Meeting: Berthoud Trustees,  
Fort Collins and Loveland City  
Councils and Larimer County  
Board of County Commissioners  
Dinner will be served**

*Columbine Room, Lincoln Center, 417 W. Magnolia, Fort Collins, CO*

6:00 p.m. Dinner served / meeting begins

**Updated Agenda**

- **Welcome and Introductions** All
- **Regional Transportation Fees** Marc Engemoen, Larimer Co. Public Works  
Rick Richter, City of Fort Collins Engineering
- **Poudre, Big Thompson, and Little Thompson Coalitions/fire & flood recovery**

**Moderator:** Suzanne Bassinger, Larimer County Recovery Manager  
**Panelists:**

  - 1) Coalition for the Poudre River Watershed: Jen Kovecses, Exec Director
  - 2) Big Thompson River Restoration Coalition: John Giordanengo, Chair
  - 3) Little Thompson Watershed Restoration Coalition; Gordon Gilstrap, Chair
- **1041 Regulations: Larimer County Update on the status of consideration of possible 1041 designation for water projects** Rob Helmick, Larimer County Planning  
[Carol Webb, Fort Collins Utilities]

▪ ~~287 Coalition Regional Transportation Topics~~

○ ~~I-25/FLEX~~

○ ~~Update on where we are~~

○ ~~What we are considering~~

Cecil Gutierrez, Mayor, City of Loveland  
Karen Weitkunat, Mayor, City of Fort Collins  
Gerry Horak, Mayor Pro Tem, City of Fort  
Collins

▪ **Open Space Tax Conversation**

All

▪ Other Items

Adjourn

**Upcoming meetings:**

- Thursday, July 24, 2014 at 6:00 p.m. Host: Larimer County
- Thursday, October 23, 2014 at 6:00 p.m. Host: Town of Berthoud



## COMMUNITY DEVELOPMENT DIVISION

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May 21, 2014

### County update on the status of considering possible 1041 designation for water projects

#### 1041 current designations/history

Originally implemented in late 2008 for energy facilities, and then amended in 2009 and 2010 to address waterlines, gas lines and solar facilities. Impetus was review of major projects and the Planning Commission concern with their role in the review with Location and Extent (which is a recommendation rather than a decision-making process). Major decisions should rest with the Board of County Commissioners (BCC) not the Planning Commission (PC).

#### Background

The Board of County Commissioners in consideration of citizen concerns that the NEPA/EIS process will not address all local issues associated with the major reservoir proposals. This includes Glade/NISP, Halligan/Seaman and Chimney Hollow. Not intended to replace the EIS.

Original language relied on both broadly stated statutory framed designations and what other jurisdiction had designated. Too broad a brush and had language that included domestic treatment and distribution. This was never the intent and those facilities, to the extent review is appropriate, are covered by previous designations.

#### Sequence of Events

- March 2012 Board of County Commissioners initial concept direction to begin
- April 2102 Board of County Commissioners/PC discussion further refinement
- May 2012 Board of County Commissioners direction
- Sept 2012 Board of County Commissioners direction
- October 2012 NCWCD meeting initial discussion as principal interested party
- February 2013 Board of County Commissioners report and direction
- April 2013 Board of County Commissioners/PC preliminary concepts
- October 2013 Board of County Commissioners/PC refined concepts draft proposal--First time any proposal for language is created.
- December 2013 Stakeholder meeting --Joint response letter and request for meeting with the Board of County Commissioners
- March 2014 Board of County Commissioners/PC --follow on direction and refined scope/direction to continue meeting with the stakeholders. Further clarified that designation is not to include treatment and distribution facilities.
- May 2014-2nd Stakeholder meeting-- review status clarify the intended scope of the designation. Continued request to meet with Board of County Commissioners

**Today.... Next steps**

**\*tentative\* Staff is proposing a facilitated meeting/discussion**

**August 2014 Stakeholder/Board of County Commissioners/PC facilitated discussion**

**If it is determined after this to move forward then any proposed designation would be further “vetted” by the PC and BCC as well as stakeholders. The full public hearing process for adoption of a Code amendment would follow.**



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## MEMORANDUM

**DATE:** May 21, 2014

**TO:** Mayor and City Councilmembers

**THRU:** Darin Atteberry, City Manager *DA*  
Kevin Gertig, Interim Utilities Executive Director *KG*

**FROM:** Carol Webb, Interim Water Resources and Treatment Operations Manager *CW*

**RE:** Update on proposed Larimer County 1041 Regulations applicable to water (and wastewater) treatment systems and reservoirs

This memo serves as an update to a February 6, 2014 memo to City Council regarding Larimer County's proposal to adopt 1041 regulations applicable to the site selection and construction or extension (or major repair) of water systems and related infrastructure. The County is also proposing a "new area designation" relative to areas in proximity of newly constructed major publicly owned reservoirs. The proposed regulations would apply to water storage, pipelines, and structures that the City has proposed to construct and/or extend within unincorporated Larimer County. The main purpose of the proposed changes is to shift the decision-making authority for such projects from a Location Extent Review by the County Planning Commission to a 1041 Review by the Board of County Commissioners.

### Background

The City of Fort Collins (the City) submitted comments on the proposed 1041 designations to Linda Hoffman, Larimer County Manager, on February 24, 2014. A copy of this letter is attached for your reference. In general, the City requested that the County engage with City staff and other stakeholders through a working group to draft appropriate regulations that would address the County's specific concerns while allowing the City and other water and wastewater providers to construct and maintain infrastructure necessary to serve our customers.

On March 12, 2014, Larimer County Planning staff presented the City's input and the input of other stakeholders along with a modified draft of the proposed 1041 regulations at a joint meeting of the Board of County Commissioners and the County Planning Commission. Commission members engaged in a lengthy discussion regarding the intent and purpose of the proposed regulations which focused primarily on the "new area designation" for shorelands of newly constructed publicly owned reservoirs. The Planning Commission and the Board of



County Commissioners directed County Planning staff to engage stakeholders in a public process to develop 1041 regulations that met the needs of both the County and water providers.

County Planning staff held the first stakeholder meeting on May 6, 2014. During this meeting, stakeholders expressed interest in developing a better understanding of the scope and need for the proposed 1041 regulations. Based on previous discussions, stakeholders in attendance suggested that the proposed “new activity designation” related to the construction of water treatment systems be removed and the “new area designation” for shorelands of reservoirs be altered to apply only to the construction of larger reservoirs (e.g., 500 surface acres or greater). The stakeholders, including City of Fort Collins staff, were generally in agreement on this approach.

### **Next Steps**

It is my understanding that County Planning staff is in the process of articulating the proposal put forth by stakeholders to the Planning Commission and the Board of County Commissioners. City staff will continue to collaborate in with other stakeholders and with County Planning staff as the process moves forward with the shared goal of developing 1041 regulations for water systems and shorelands of reservoirs that are appropriate in both purpose and scope.

Please contact me if you have any questions.

CC: Carrie Daggett, Deputy City Attorney



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February 24, 2014

Linda Hoffman, Larimer County Manager  
200 W. Oak Street  
PO Box 1190  
Fort Collins, CO 80522-1190

Re: Proposed 1041 Designations

Dear Linda,

The City of Fort Collins (the City) thanks you for the opportunity to submit additional comments concerning the proposed amendments to Section 14 of the Larimer County Land Use Code. The proposed amendments would designate the site selection and construction of major new water and sewage treatment systems and major extension of existing domestic water and sewage treatment systems as matters of state interest and require a 1041 permit for these activities. In addition, the County proposes to establish a new area designation relative to areas in proximity of newly constructed major publicly owned reservoirs as a matter of state interest and subject to 1041 requirements.

While it is clear that the County intends to address some particular concerns with the adoption of the proposed regulations, it is unclear to the City as to the specifics of those concerns. The process to date has not allowed the City to actively engage in to the level of dialogue needed to develop regulations that are appropriate in both substance and scope and that will address specific County concerns through the 1041 permit process in a targeted manner that will be efficient both for the County and the regulated community. In its current form, the proposed regulations would affect a broad range of projects, many of which may be of no particular interest or concern to the County.

The City is a water and sewer provider with obligations to its citizens and customers, and the proposed regulations have the potential to significantly impact the City's ability to plan and implement the systems needed to carry out those obligations. We are concerned that those impacts be considered and understood in the process of developing the County's regulations, in order to avoid unintended or unnecessary costs, delays or impairment of water and sewer systems and services.

The City requests that the County engage with City staff through a working group to draft appropriate regulations that would address the County's specific concerns while allowing the City and other water and wastewater providers to construct, extend, and maintain infrastructure necessary to serve our customers. City staff would be eager to participate in a group to develop 1041 regulations to address the matters of interest and concern to the County. Given that the proposed 1041 regulations may significantly impact the City, additional input and collaboration



on the proposed regulations are necessary to develop regulations that meet the needs of all stakeholders.

Please feel free to contact me if you have any questions. Thank you again for the opportunity to comment on the proposed designation language and for your openness to extending the comment period.

Sincerely,

A handwritten signature in blue ink, appearing to read "Darin Atteberry".

Darin Atteberry, City of Fort Collins, City Manager

cc: Larimer County Board of County Commissioners  
Larimer County Planning Commission  
Robert Helmick, Larimer County, Planning Department  
Karin Madson, Larimer County, Planning Department  
Brian Janonis, City of Fort Collins, Utilities Executive Director  
Kevin Gertig, City of Fort Collins, Water Resources and Treatment Operations Manager  
Carrie Daggett, City of Fort Collins, Deputy City Attorney  
Carol Webb, City of Fort Collins, Regulatory and Government Affairs Manager  
City Councilmembers






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**MEMORANDUM**

**DATE:** February 6, 2014

**TO:** Mayor and City Councilmembers

**THRU:** Darin Atteberry, City Manager 

**FROM:** Carol Webb, Regulatory and Government Affairs Manager

**RE:** Process for providing comment on proposed Larimer County 1041 Regulations applicable to water (and wastewater) treatment systems and reservoirs

City staff recently provided an update (see attached) to the City Council Legislative Review Committee (LRC) regarding Larimer County’s proposal to adopt 1041 regulations applicable to the site selection and construction or extension (or major repair) of water and wastewater treatment systems and related infrastructure. The County is also proposing a “new area designation” relative to areas in proximity of newly constructed major publicly owned reservoirs. These regulations would apply to water storage, pipelines, and structures that the City has proposed to construct and/or extend within unincorporated Larimer County.

The LRC suggested that staff provide comment to the County on its process for adopting the proposed 1041 regulations (including additional time and work with stakeholders). Stakeholders did not become aware of the County’s proposal until November 2013 and the County has held only one public meeting on the matter. In addition, the Larimer County Planning Commission and the Board of County Commissioners are tentatively scheduled to hold a work session on the proposed regulations on March 12, 2014. This timeline is inadequate to provide thoughtful comment. Therefore, staff will submit a letter to the County that requests the following: 1) that the County engages stakeholders in a working group to develop meaningful regulations, 2) that the timeline to develop the regulations be extended, and 3) that the County develop a meaningful standard which addresses the specific concerns of the County Commissioners.

The LRC also directed staff to prepare for Council’s consideration a proposed revision to the Legislative Policy Agenda to clarify that the LRC has the authority to take positions on proposed new County regulations as well as state legislation. The current Policy Agenda states that the document may be used as a guide to “assess City positions on bills offered during the Colorado General Assembly session and in the United States Congress”. The Policy Agenda is not explicit regarding the LRC’s authority to address proposed County regulations. Modifying the Legislative Policy Agenda to cover County regulations would allow the LRC to direct a formal



position to be taken or to make a recommendation to Council regarding a formal position on any County regulations that affect the quality of life and the governance of our community. Should Council choose to expand the authority of the LRC, staff will seek formal direction from the LRC regarding substantive comments on the County's 1041 regulations, using the policy statements in the Legislative Policy Agenda for guidance.

### **Next Steps**

City staff plans to attend the March 12 Board of County Commissioners/Planning Commission Joint Work Session to better understand the needs and direction of the County Commissioners. Following that work session, City staff will update the Council on the status of the proposed regulations and any plans for a formal stakeholder process coordinated by County staff. City staff plans to participate should the County choose to engage stakeholders in such a manner,

Depending on the outcome of the work session and/ or a formal stakeholder process, the LRC and/or the City Council may wish to adopt a resolution to take a formal position on the adoption of the proposed 1041 regulations. Staff will update the LRC and/or Council as appropriate on the progress of the proposed regulations.

CC: Brian Janonis, Utilities Executive Director  
Kevin Gertig, Water Resources and Treatment Operations Manager  
Carrie Daggett, Deputy City Attorney



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## MEMORANDUM

**DATE:** February 4, 2014

**TO:** City Council Legislative Review Committee

**THRU:** Dan Weinheimer, Policy and Project Manager

**FROM:** Carol Webb, Regulatory and Government Affairs Manager

**RE:** Proposed Larimer County 1041 Regulations applicable to water (and wastewater) treatment plants and related infrastructure and areas in proximity to reservoirs

Staff is seeking input from the City Council Legislative Review Committee regarding the City's position on Larimer County's proposal to adopt 1041 regulations applicable to the site selection and construction or extension (or major repair) of water and wastewater treatment systems and related infrastructure. The County is also proposing a "new area designation" relative to areas in proximity of newly constructed major publicly owned reservoirs. These regulations would apply to water storage, pipelines, and structures that the City has proposed to construct and/or extend within unincorporated Larimer County.

### **About 1041 Regulations**

Colorado Revised Statute 24-65.1-401 allows local governments to regulate areas and activities of state interest through a local permitting process. Larimer County has already adopted 1041 regulations for a variety of development projects, including power plants, electric transmission lines and substations, and new or extended water and wastewater pipelines of a specified size (large lines). Generally, the County's 1041 regulations require that an applicant obtain a 1041 permit from the County prior to conducting any activity covered by the regulations. This process requires several steps, including preparation of a detailed application, a Planning Commission review, and a Board of County Commissioners review. They also provide for an "appeal" process (which is essentially a variance process), and the use of intergovernmental agreements as an alternative to obtaining a permit, if agreeable to the County.

### **Proposed 1041 Regulations**

Larimer County is proposing amendments to existing 1041 regulations that would make them applicable to the site selection and construction and extension of water and wastewater treatment systems, including plants and related infrastructure such as raw water storage, pipelines and



other structures. In addition, the County is also proposing a “new area designation” relative to areas in proximity of newly constructed major publicly owned reservoirs. These regulations, if adopted, would apply to City water storage, pipeline, and other water and wastewater system projects that the City may construct within unincorporated Larimer County. Recent and planned projects to which these regulations may apply include the construction of the pre-sedimentation basin and proposed gravel pit storage. The standards to be met by projects under the regulations are not clearly stated, leaving the County with a substantial amount of discretion in deciding whether to permit projects.

### **Potential Impacts to the City**

The proposed regulations would likely add costs and time to the planning and approval of projects and associated activities. There is also a chance that the County may deny a permit for such projects (although it is unclear what the proper basis for approval or denial would be under the rules as proposed).

There may be reasons that the City would prefer to see the County’s authority over some water projects to be increased. This may particularly be true in regard to major projects like NISP, Seaman Reservoir, the Thornton water pipeline, or other non-City projects. In any case, there appears to be substantial need for clarification and specification of standards to apply in the County’s exercise of its 1041 authority over water projects.

### **Next Steps**

The Larimer County Planning Commission and the Board of County Commissioners are tentatively scheduled to hold a work session in March (date to be determined) to discuss input on the proposed regulations to date and to plan next steps. County Planning staff has indicated that the County Commissioners will hold public hearings on this matter within the next few months with planned adoption sometime in the next six months. City staff submitted some preliminary comments on the proposed regulations in December 2013 (see attached), and, depending on the direction of the LRC, may also submit comments prior to the March joint work session. County staff had requested that comments be submitted by the end of January. City staff is seeking input regarding the general position to take in response to the proposed regulations, and has indicated that additional City comments may be submitted.

CC: Darin Atteberry, City Manager  
Steve Roy, City Attorney  
Brian Janonis, Utilities Executive Director  
Kevin Gertig, Water Resources and Treatment Operations Manager  
Carrie Daggett, Deputy City Attorney



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December 30, 2013

Board of County Commissioners  
Larimer County Planning Commission  
P.O. Box 1190  
Fort Collins, CO 80521

Re: Proposed 1041 Designations

Dear Commissioners,

Fort Collins Utilities thanks you for the opportunity to submit comments concerning the proposed amendments to Section 14 of the Larimer County Land Use Code. The proposed amendments would designate the site selection and construction of new water treatment systems and major extension of existing domestic water treatment systems as matters of state interest and require a 1041 permit for these activities. In addition, the County proposes to establish a new area designation relative to areas in proximity of newly constructed major publicly owned reservoirs as a matter of state interest and subject to 1041 requirements.

While we understand that the County desires to regulate these types of activities, Fort Collins Utilities has identified several issues with the proposed language. Our general concerns are as follows:

- 1. The scope of the designation is too broad.** The draft language provided may be interpreted to cover nearly every aspect of site selection and construction of any water treatment construction project, including “a system of wells, diversions, pipes, structures, facilities, including impoundments and their structures through which a water supply is obtained, stored, sold, or distributed...” The current language does not indicate the Commission’s specific areas of concern and what issues the Commission intends to address by adopting 1041 regulations.
- 2. The 1041 process is overly burdensome for smaller projects that may be covered by the proposed designation.** While a comprehensive 1041 process may be warranted for projects of a particular size and scope, such an intensive process may not be needed for smaller projects that do not pose the types of issues that the Commission wishes to address with 1041 requirements. Consequently, the 1041 process may be overly burdensome and impose unnecessary requirements on some types of projects.
- 3. The proposed language lacks clarity regarding what types of projects are or are not covered by 1041 requirements.** For example, the proposed language does not distinguish



between repair and maintenance of existing treatment facilities and/or increasing the size of existing facilities.

4. **The timeline for comment on the proposed language is inadequate.** Stakeholders received notice regarding the proposed 1041 regulations in late November 2013, however Fort Collins Utilities did not receive any public notice. Rather, Fort Collins became aware of the proposal through communication from other stakeholders. Given that the proposed 1041 regulations may significantly impact the City, additional time to comment is appropriate.

Given the general comments outlined above, Fort Collins Utilities respectfully requests that the written comment deadline of December 31, 2013 be extended to January 31, 2014. This will allow Fort Collins Utilities staff to prepare detailed comments that will help form the County's regulatory development process going forward.

Please feel free to contact me at 970-221-6700 if you have any questions.

Sincerely,  


Brian Janonis, PE  
Utilities Executive Director  
Fort Collins Utilities