

RESOLUTION 2016-029
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING THE CITY ATTORNEY TO JOIN IN LITIGATION IN SUPPORT OF THE
ENVIRONMENTAL PROTECTION AGENCY'S CLEAN POWER PLAN RULE AS AN
AMICUS CURIAE

WHEREAS, in October, 2015, the U.S. Environmental Protection Agency ("EPA") adopted the "Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units," 80 Fed. Reg. 64,662 (October 23, 2015), also known as the "Clean Power Plan" Rule (the "CPP Rule"), a set of regulations to reduce carbon emissions associated with electric power generation; and

WHEREAS, on October 23, 2015, the State of Colorado, along with other state and local governments, petitioned the D.C. Circuit Court of Appeals to stay application of the CPP Rule; and

WHEREAS, on January 21, 2016, the D.C. Circuit in the consolidated case entitled West Virginia, et al. v. EPA, et al., Case No. 15-1363 (the "Case") denied the stay request; and

WHEREAS, the D.C. Circuit decision denying the stay request was appealed to the U.S. Supreme Court (Case No. 15A773), which overturned the D.C. Circuit on February 9, 2016, and granted a stay in the Case; and

WHEREAS, following the U.S. Supreme Court's stay, litigation in the Case resumed before the D.C. Circuit, and supporters of both sides of the dispute have begun entering the case directly or by preparing briefs to assist the D.C. Circuit Court in evaluating the issues; and

WHEREAS, the National League of Cities ("NLC") and others representing a "Local Government Coalition" are participating in an *amicus curiae* brief in support of the EPA as the Respondent in the Case (the "Amicus Brief"), and the City has been asked to join in that effort as signatory on the Amicus Brief; and

WHEREAS, the relevance of climate change to local government responsibilities and activities has prompted the City of Fort Collins to adopt local efforts to adapt to climate changes and to slow greenhouse gas emissions, as described in the City's Climate Action Plan Framework; and

WHEREAS, the City's 2016 Legislative Policy Agenda calls for the City to "*Participate in federal, state and regional efforts to foster resilient Communities*" and that "*the City supports policies and legislation helping communities to achieve specific greenhouse gas reductions*"; and

WHEREAS, the City Council concludes that the CPP Rule is important to Fort Collins, which stands with other local governments on the front line of efforts to deal with climate change by developing lower carbon-intensive methods to meet energy and infrastructure needs for the U.S. population that lives in cities; and

WHEREAS, regulation requiring local, regional, and national responses to climate change impacts human welfare and municipal services, and the City Council concludes that the City could be affected by the invalidation of the CPP Rule; and

WHEREAS, the City Council finds that joining with the NLC and the other public bodies of the "Local Government Coalition" in supporting the Amicus Brief is consistent with the community environmental goals and programs established by the City and will further benefit the City's residents.

NOW THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That the City Attorney is authorized to take such actions on behalf of the City of Fort Collins as may be required for the City to participate as a party to the Amicus Brief prepared by the Sabin Center for Climate Change Law at Columbia Law School, joining the NLC and others as part of a "Local Government Coalition," to support the authority of the U.S. Environmental Protection Agency to adopt the CPP Rule, in West Virginia, et al. v. EPA, et al., Case No. 15-1363, pending before the D.C. Circuit Court of Appeals.

Section 3. That the direction to the City Attorney to join the City as a signatory to the Amicus Brief, as provided herein, is subject to the City Attorney's satisfaction, upon review and consultation with City staff, and the Sabin Law Center and/or the NLC, as to the content and validity of all legal arguments advanced in that Brief, as may be determined to be necessary and appropriate to protect the interests of the City or to effectuate the purposes of the Resolution.

Passed and adopted at a regular meeting of the Council of the City of Fort Collins this 15th day of March, A.D. 2016.




Mayor

ATTEST:


City Clerk