

MINUTES

CITY OF FORT COLLINS • BOARDS AND COMMISSIONS



AIR QUALITY ADVISORY BOARD

TYPE OF MEETING – REGULAR

December 17, 2018, 5:30 – 8:00 pm
Colorado River Room, 222 Laporte Ave.

1. CALL TO ORDER

5:30 pm

2. ROLL CALL

- List of Board Members Present
 - Karen Artell
 - Greg Clark
 - Arsineh Hecobian, Chair
 - Mark Houdashelt
 - Chris Wood
 - Vara Vissa, Vice-Chair

- List of Board Members Absent
 - Jim Dennison
 - Matt Tribby
 - Harry Edwards

- List of Staff Members Present
 - Cassie Archuleta, Staff Liaison
 - Ginny Sawyer, Project and Policy Manager
 - Jason Komes, Waste Reduction and Recycling Specialist

- List of Guests
 - Eric Shenk, Citizen

3. AGENDA REVIEW

- No changes

4. CITIZEN PARTICIPATION

- There were no citizen comments.

5. APPROVAL OF MINUTES

- Greg moved and Karen seconded a motion to approve the November 19, 2018 minutes *as revised*. Motion passed, 6-0-0.

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6. UNFINISHED BUSINESS

Regional Wasteshed Recommendation

- A memo regarding the Regional Wasteshed was drafted by Arsineh to reflect the Board's discussion during November's meeting; the document incorporated edits made by Board members since the last meeting. A dissenting opinion was also added to the memo with the approval of the Board. Arsineh will finalize the document and submit it to Council as soon as possible.

Board Member Acknowledgements

- Mark and Vara were thanked for their outstanding efforts while serving on the AQAB.

7. NEW BUSINESS

a. Keep Fort Collins Great (KFCG) Sales Tax Sunset, 6:00-6:45

Ginny Sawyer, Project and Policy Manager, provided an update regarding the 2020 sunset of the .85-cent voter-approved Keep Fort Collins Great (KFCG) sales tax. The Board discussed a recommendation for Council, prior to a potential ballot referral on February 5, 2019.

- The KFCG sales tax will sunset on December 31, 2020 and the City would like to initiate a dialogue with the community to formulate a plan during 2019 and begin strategizing for the 2020 budget-building process.
- The City has two sources for funding: taxes and fees. Sales tax is the City's main funding source and currently sits at a 2.25% base rate, which has not changed since 1982. KFCG is one of four dedicated taxes that also include Open Space (.25-cent), Street Maintenance (.25-cent) and Community Capital Improvement (.25-cent).
- The KFCG funds the following:
 - 33% Street Maintenance and Repair
 - 17% Transportation
 - 17% Police Services
 - 11% Fire Services
 - 11% Parks and Recreation
 - 11% Other Community Priorities
- The City would like the community's help in assessing whether it is providing the right services at the right price. KFCG revenue can be replaced in full, or at another amount; however, if the tax is not replaced in full, there will likely be reduced levels of service in the aforementioned areas.

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- Fort Collins would like citizens to consider whether the base rate should be increased, if a dedicated tax should be considered, and if the amount should be replaced in full. The following options could be employed as a means to these ends:
 - Option 1: Renew the .85% dedicated tax with the option to alter funding levels to different services
 - Option 2: A 0.6% increase to the 2.25% base rate to cover essentials like police and fire and would also include a .25% dedicated tax for things like park maintenance, transportation, sustainability, etc.
 - Option 3: A .85% increase to the base rate with no dedicated taxes (one-time vote)

Discussion

- Greg asked if it would be easiest to renew the tax as is [Option 1].
 - Ginny responded that this option would be the simplest, but the ballot language would still have to mention a tax increase.
- Mark asked if the ballot language related to the dedicated tax must stipulate funding percentages allocated to each [KFCG] service area.
 - Ginny replied affirmatively.
- Vara noted that there is potential for change in the City in the coming years. She expressed concern with including a .85% increase in the base [Option 3] without stipulating what the funding would be used for. She asked Ginny if she believed this method would be effective at preserving funding for the services areas that currently fall under the KFCG tax.
 - Ginny responded that such concerns are part of the reason that the City is seeking public opinion and it will ultimately be voted upon. If the .85% is included in the base rate, then it will be included in perpetuity. The guarantee comes in the level of service and the budgeting process. While there will be opportunities to ensure that levels of service are maintained appropriately, this route could create a lack of confidence. If the tax is dedicated, people know that specific service areas will receive funding, even if they don't necessarily require all of the funding allocated. It's a trade-off.
- Mark enquired if some of the funding for these service areas could be taken from the general fund.
 - Ginny responded that street maintenance doesn't come out of the general fund. She noted that funding for this area and community enhancements will expire in

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2025; this area will be revisited every ten years.

- Ginny stated that KFCG will be discussed during a Council work session on January 2, 2019, and then again on January 22, 2019. This will likely go to a public vote in April 2019. Since there are only three elections between now and when the tax expires, the City would prefer to vote on the tax as soon as possible so that if it does not pass during the first election, there will be other opportunities to rework the ballot language and try again.
- Ginny stated that from 2001 – 2017 Fort Collins' population increased at about 1.71%, the consumer price index increased by 2.03% and the general fund increased by 2.31% per year; however, the general fund should be increasing by around 3.7% to keep up with growth. While approximately 5.5 cents of every dollar earned in Fort Collins is coming back to support the City, people don't have to come from surrounding towns to shop in Fort Collins anymore and sales tax revenue has flattened over the past years, leaving residents to bear more of the costs of service.
- Chris asked if there are benefits to the City to having a longer-term commitment (bond ratings etc.).
- Ginny stated that the City's bond rating is high (Aaa). Vara asked if sales tax flattening is occurring throughout the State and if it appears to be related to shifts in demographics or income levels. She went on to enquire if the student population was included in the aforementioned calculations and questioned whether people have the spending money to support City services in this manner.
 - Ginny stated that students are included in these calculations. She noted that all communities in Colorado rely heavily on sales taxes and fees for funding services. The City has had other fee conversations (for example, an occupation tax, where every employer or employee must pay to work here). Although wages haven't kept up, the City still only has taxes and fees to provide revenue. The KFCG tax has a long history of support, and passed in 2010 (at 60%) after a recession. Internally, the City is examining the level of service that must be provided to be good stewards while maintaining cost-effectiveness and affordability.
- Greg asked if the City would prefer an April election because there will be fewer ballot issues.
 - Ginny responded that there is less likely to be another tax initiative in April; furthermore, it won't cost anything as the City will run the election rather than the County. Historically, such initiatives have passed in both April and November votes, but an April vote would allow more than one opportunity to rework the issue and vote on it again.
- Arsineh asked what services and programs are funded by the KFCG tax within the

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Environmental Services Department.

- Cassie replied that the Environmental Compliance Inspector (Fugitive Dust Program, etc.) operations at Timberline Recycling Center, some of the Healthy Homes support staff and the Christmas Tree Recycling Program are all funded by the KFCG tax.
- Mark enquired if online sales are affecting sales tax collection in Fort Collins and went on to ask if online companies will have to start charging local sales taxes.
 - Ginny responded that online sales are affecting tax collection and noted that online retailers are starting to pay and more will likely pay in the future.
- Arsineh and Ginny discussed the funding options presented. Ginny noted that while she is not sure if Council will like option 3, she feels that it could pass based on public opinion. Arsineh noted that option 2 sounds like it is the most complicated and Ginny replied that it seems that way because it would have to be presented as two separate ballot questions, but if they were run during the same election, it could save some campaign dollars.
- Arsineh asked which option (1 or 3) City Staff preferred.
 - Ginny responded that option 3 could be effective since the City would not have to hold another vote to allocate funds. The Staff and Council would go through the budgeting steps they take with general fund money. This option would allow Council to prioritize funding and enable greater flexibility. On the other hand, option 1 would provide a guaranteed amount of money for program staff, with the downside being that the City will have to gear up for a tax renewal vote every 10 or 20 years to ensure funding.
- Arsineh asked if the City went with option 1, could it be revisited as priorities change prior to the expiration of the tax.
 - Ginny stated that the tax would have to remain the same unless the City held another public vote. Certain stipulations could be included in the ballot language. For example, if the .85% were put into the base rate the language could stipulate a period of 10 years, and after that the money could go into the general fund.
- Ginny confirmed the AQAB can communicate its preference of the options presented to Council. She stated that the Poudre Fire Department Board is going to support renewing in a letter to Council and the Parks and Recreation Board will be asking Council to raise the tax above 0.85%.
- Mark asked if the budgeting process would change if the money went into the general fund.
 - Ginny replied that the budgeting process would remain the same.

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- Greg noted that AQAB's priorities are typically related to transportation and environmental services, which aren't always prioritized by the City. He asked which option would align best with AQAB's desire to support such departments and services.
 - Ginny replied that the second option may be best as it would allow the .25% dedicated tax to be split between sustainability and all-mode transit (sidewalks, transit, bike lanes, other transportation, etc.).
- Mark asked how much money would be lost if the tax doesn't pass.
 - Ginny responded that the loss would be about 27 million dollars.
- Arsineh asked Board members for their opinions:
 - Mark stated that he would choose option one, but would look at a potentially different distribution of the tax.
 - Chris stated that he would support whatever action must be taken to obtain the funding.
 - Greg expressed concern with ballot messaging and stressed the importance of keeping it simple to ensure that the tax passes.
 - Karen noted that in the November 2018 election, Coloradans voted down tax increases. She believes that April will be a good time to present this to voters if there won't be other tax increases on the ballot.
 - Vara asked if there is a backup plan if the 0.85% tax is voted down altogether. She suggested that there may be a saturation point on taxation. She went on to state that she does not think messaging should be so simple that the facts are not revealed.
 - Ginny replied that the current backup plan would be to try to pass the tax again in the next election. Fort Collins has traditionally been a community that is willing to tax itself. She noted that Council will decide on the specific ballot language..
- In summary, the Board agrees that while transparency is very important, members would like to ensure that the measure proposed passes and feel that simple messaging might be an effective way to do so. The Board will support the option that City Staff and Council find most prudent.

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b. Outdoor Wood Burning Update

Cassie Archuleta, Air Quality Program Manager, provided an update regarding recent Council direction on outdoor burning, and proposed regulatory options that will be presented to Council at a January 22, 2019 Work Session.

Background and Community Engagement Outcomes

- Project Goal: To develop recommendations regarding options to better protect human health and reduce nuisance from outdoor wood smoke.
- Additional Identified Opportunities: To increase safety awareness, health impact awareness and cognizance of regional environmental issues.
- Over the past summer, City staff focused on public engagement related to outdoor wood burning. Over the course of this engagement, it became clear that the community is polarized on the issue. Cassie reviewed the available regulatory options and stated that, per Council direction, which is aligned with the AQAB recommendation, staff is developing a recommendation for the middle ground option.
- The objective of the middle ground approach is to prohibit recreational wood fires that negatively impact neighbors while encouraging neighborhood dialogue, promoting awareness of safety regulations and potential nuisance concerns, and avoiding the use of first-responder resources.

Potential Code Updates: Prohibiting and Permitting

- City staff is considering the proposal of two potential code changes to Council. The first would be to define and prohibit unreasonable smoke and the second would be to require a permit for outdoor burning. Cassie would like Board feedback on each of these.
- Defining and prohibiting unreasonable smoke could be accomplished with a simple update to the current code. The definition of prohibition of “unreasonable noise” could be used as a model for a new code defining nuisance related to outdoor burning. On its own, the code would only be applicable when a fire is active.
- In addition to this, the City could prohibit recreational wood fires without a permit. This would likely be similar to the permit requirements for solid-fuel burning appliances and open burning.

Staff will present the potential code updates, new system implementations and resource expenditures to Council on January 22, 2019. Cassie enquired if the AQAB supports the presented code updates.

Discussion

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- Karen asked about restrictions on wood-burning in permanent structures and what distinguishes them.
 - Cassie stated that the EPA does not certify permanent outdoor burning structures, but City Code requires that new (permanent) indoor burning devices be EPA-certified. This leaves questions about how to enforce this issue of existing permanent outdoor burning structures.
- Mark asked how this new system would be better than the existing.
 - Cassie replied that one important benefit to the new system would be the permitting process, which would allow for more education opportunities. For example, if a complaint is made, the City can check to see if the person burning has a permit. If not, they could follow up with that person to let them know that a permit is required. If a complaint is made against someone with a permit, there could be a potential to revoke the permit, negotiate with the citizen, or remind them of the code.
- Karen asked if permits would be seasonal and if a violation would be a criminal offense.
 - Cassie responded that the recommendation is that permits are renewed annually. Air quality staff are currently looking into the permitting process in other communities.
- Greg asked why the City would not charge to obtain a permit.
 - Cassie responded that keeping the permit free may make its implementation more palatable to start. If the services associated with it require more resources in the future, then the potential for a fee may be evaluated.
- Vara stated that the code implies that all residents have at least 15 feet between the fire and combustible structures, which is not the case for everyone in the City. This causes an equity issue; those who can afford larger yards will have the right to burn in their yards, while those who cannot lose the right.
 - Cassie replied that the 15-foot rule is part of the current fire code. The rule exists as a precaution as it states that the fire must be 15 feet from combustible materials. That having been said, it could be considered an equity issue as those with smaller yards may not have the option to burn.
- Chris asked if cooking fires would require a permit
 - Cassie responded that the purpose of the fire will be considered and that cooking fires will be exempt.
- Arsineh stated that it may be useful if the permitting/education process allows for a log of activities to see history of infractions.

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- Karen believes that the proposed process is reasonable but urged staff to clarify any EPA requirements for permanent outdoor burning structures.
 - Cassie responded that that the City will not seek out infractions, but rather, a complaint will have to be made by a citizen to initiate the process. Cassie will seek clarification regarding using EPA indoor requirements for outdoor burning structures.
- Vara noted that the proposed process relies on initiation of a complaint. She asked how the City will ensure that its citizens are aware that they have the right to complain. She's concerned that messaging about how and where to log a complaint may not reach underserved citizens and believes that a full ban would protect them better.
 - Cassie noted that educating the public would be a priority, and staff would do their best to reach out to underserved, and translations would be offered.
- Arsineh enquired about the website that the City is setting up for permits. She asked if it would also include a place to log complaints.
 - Cassie stated that this would depend on the resources allocated to set the website up. The first priority will be to get the permitting system in place so that citizens can maintain compliance with code. Currently, complaints can be called in, but in the future an automated intake system may be developed so that people can input complaints on their own and responses can be prioritized.
- Mark asked how City staff will judge the success of the proposed process.
 - Cassie stated that staff would follow up after a year of implementation by providing the Board and Council with a report summarizing effectiveness, similar to the process to implement the fugitive dust requirements.
- Mark noted that the option to complain may bring up grievances that would not have existed otherwise.
- Arsineh noted that people can have fires and not be bothersome and emphasized the importance of clarifying the intent of this process to lessen potential reaction from those with existing fire pits.
- Chris noted that administration burden of a permit system would serve as a disincentive, which may help with the issue.

In Summary:

There was general support, as the proposed permit system was aligned with the Board's previous recommendation.

c. Annual Report

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The Board discussed preliminary content for the 2018 annual report.

- Arsineh will post a draft online to collect Board member comments. The Board will vote on a final report in January.

8. BOARD MEMBER REPORTS

- Mark attended last months' natural resource meetings and sent an email to AQAB members summarizing the topics which included building energy scoring systems.
- Vara recently attended a TBL meeting at which she was able to preview the SCAN tool, which was discussed as a potential topic for the first joint Boards and Commissions meeting. The SCAN tool will provide a template of how to operate at such meetings. The next meeting will likely be during February.

Staff Follow-Up: Cassie will inform members of upcoming meeting dates.

- Mark noted that Poudre School District will have to purchase all new busses after the Volkswagen settlement, which may allow for the purchase of all new electric buses. He asked if the City can comment to the school board.

Staff Follow-Up: Cassie will put this on a list of potential discussion items. The City government and Poudre School District governing bodies interact regularly. There may be a potential to invite a fleet person to an AQAB meeting.

9. OTHER BUSINESS

- In January, the Board will vote for a new Vice-Chair and new member orientation will occur. There will also be a discussion on E-bikes.
- At the February meeting, radon and the City Plan will be discussed.
- The Board must appoint a new representative for the multi-board meeting.
- Greg noted that he'd like the Board to keep an eye on ozone nonattainment and would like to continue to receive updates on what to expect next summer.

10. ADJOURNMENT

8:01 pm