

May 22, 2018

COUNCIL OF THE CITY OF FORT COLLINS, COLORADO

Council-Manager Form of Government

Adjourned Meeting – 6:00 PM

● ROLL CALL

PRESENT: Stephens, Summers, Overbeck, Troxell, Horak

ABSENT: Martinez, Cunniff

Staff present: Atteberry, Daggett, Coldiron

1. **Consider Joining the Amicus Curiae Brief to be Filed by Boulder County and Other Local Governments in Support of the Respondents in the Colorado Supreme Court Case Colorado Oil and Gas Conservation Commission v. Martinez. (Adopted)**

The purpose of this item is to consider authorizing the City Attorney to join Boulder County and other local governments in an amicus curiae brief (the "Amicus Brief") to be filed in the Colorado Supreme Court case Colorado Oil and Gas Conservation Commission v. Martinez ("Martinez"), and a motion to direct staff action on the request. At issue are differing interpretations of the scope of authority delegated to the Colorado Oil and Gas Conservation Commission (the "COGCC") by the Colorado General Assembly in the Oil and Gas Conservation Act (the "Act"). The filing deadline for amicus briefs in support of the Respondents is May 25, 2018, and the deadline for the City to respond to Boulder County is May 23.

Cassie Archuleta, Environmental Sustainability Manager, stated the Colorado Supreme Court case in question is about the interpretation of the authority of the Colorado Oil and Gas Association under the Oil and Gas Conservation Act related to production of oil and gas resources and the protection of environment and wildlife resources. Archuleta reviewed the court rulings leading to this point and discussed the current case before the Supreme Court. Boulder County led the amicus brief preparation and the brief has since been joined by at least 14 other local governments with the position that the Court of Appeals decision was consistent with state and local government and regulatory agencies' obligations, authorities, and regulatory powers. Archuleta stated the City Attorney's Office reviewed the amicus brief summary and determined that the legal case is sound.

Lucinda Smith, Environmental Sustainability Director, stated the City recently developed a series of questions to think through numerous requests it receives to make commitments or join organizations. She reviewed the key questions in this case under the City's Commitment Evaluation Process.

John Gascoyne stated Councilmember Martinez was a highly compensated spokesperson for the oil and gas industry when the moratorium against fracking in the City limits was passed. He stated he would not be able to make an unbiased decision in this case.

Jeremy Mack stated people his age and younger are worried about the fate of the planet.

Fran Levine stated she works in Weld County and is surrounded by oil and gas wells constantly. She has been sick and children she treats have been suffering as a result of air pollution.

Mary Elise Delphs discussed the negative effects of oil and gas drilling on health and the environment.

Sarah Hunt stated this case could have deleterious effects on the entire energy sector with overzealous protections. She opposed joining the amicus brief as citizens have not had a chance to participate.

Jason Knebell stated Councilmembers work for the City of Fort Collins, not for the oil and gas industry.

Gayla Martinez encouraged Council to join the amicus brief.

Elizabeth Hudetz encouraged Council to join the amicus brief and discussed air and environmental pollution.

Tim Gosav stated this court decision is about health and safety and the City has an obligation to its residents to maintain health and safety in this community.

Ted Walkup stated the younger generation is most at risk from short-sighted policies that value corporate profit over human health and safety. He encouraged Council to join the amicus brief.

Andy Spielman, Denver Metro Chamber of Commerce, stated air quality in the Northern Front Range is improving and opposed joining the amicus brief as the Martinez case demands as a prerequisite that there be zero impact to public health, safety, and welfare. He stated that is not consistent with the legislative intent and the COGCC is required to balance health, safety, and welfare.

John Anderson stated Fort Collins should be leading this amicus brief given the public vote for the moratorium.

Shane Davis stated oil and gas permitting is a rubber-stamping system which does not take public health, safety, and welfare into account.

Forrest Carlson encouraged Council to join the amicus brief.

Joyce DeVaney encouraged Council to join the amicus brief.

Representative Joe Salazar stated a permit has never been denied due to balancing interests and encouraged Council to join the amicus brief.

Doug Henderson, Sierra Club of Colorado, encouraged Council to join the amicus brief.

Nancy York encouraged Council to represent the citizens of Fort Collins and join the amicus brief.

Andy Peterson stated he works in the oil and gas industry and noted this case will only address new wells and stated the air has gotten cleaner as more natural gas wells have been drilled and fracked.

Kaitlyn (no last name given) stated the oil and gas industry does not support our economy.

Michael Hayes, Denver Metro Chamber of Commerce, stated this case is about statutory interpretation and is not limited to the COGCC. He stated if the Court of Appeals interpretation of the phrase "consistent with" is upheld, it could invalidate the regulations of any other state agency or local government.

Jim Vassallo stated the oil and gas industry is exporting record amounts of diesel and crude oil despite gasoline prices rising in this country.

Mayor Troxell requested staff input regarding Mr. Hayes' comments. City Attorney Daggett replied that is the sort of argument frequently made in legal disputes; however, in connection with this case, it may be taking the argument too far for the outcome of this case to broadly change the manner in which other statutes and local laws are interpreted.

Councilmember Summers stated it is important to understand what is behind this case and the plaintiffs have stated their goal is to ban energy development in Colorado, and that would have a tremendous impact on Northern Colorado's economy. He stated the COGCC already evaluates public health and environment concerns when considering regulating oil and gas operations. He discussed the positive impacts of the oil and gas industry in the area and stated air quality is improving. He requested staff input as to how many days of the year Fort Collins has an ozone level greater than 75 parts per billion. Archuleta replied 5 to 10 days are usually above that threshold, usually in the summer.

Councilmember Summers stated the idea the oil and gas industry does not care about the environment is false and not borne out in fact.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Stephens, that the City of Fort Collins join the amicus brief to be filed by Boulder County and other local governments.

Mayor Pro Tem Horak stated this item does not relate to oil and gas being good or bad, but rather to working with and supporting area governments.

Councilmember Stephens thanked the citizens who spoke and stated she would support the motion as it clearly aligns with the City's legislative policy agenda and elements of City Plan dealing with air quality. She stated protecting the health and safety of citizens should be the utmost priority for the City.

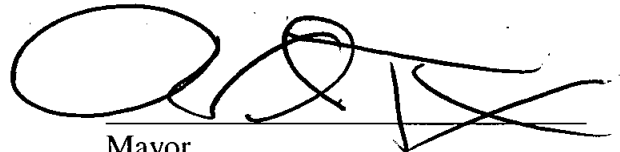
Councilmember Overbeck stated he would support the motion as the brief aligns with the legislative policy agenda and City Plan.

Mayor Troxell stated he would not support the motion as the brief is not likely to make any impact for Fort Collins. He stated the City should place its efforts on local environmental initiatives.

RESULT:	MOTION TO JOIN THE AMICUS BRIEF ADOPTED [3 TO 2]
MOVER:	Gerry Horak, District 6
SECONDER:	Kristin Stephens, District 4
AYES:	Stephens, Overbeck, Horak
NAYS:	Summers, Troxell
ABSENT:	Martinez, Cunniff

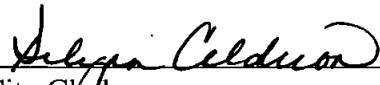
- **ADJOURNMENT**

The meeting adjourned at 6:52 PM.



Mayor

ATTEST:



City Clerk

