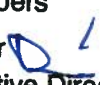







**Utilities**  
electric · stormwater · wastewater · water  
700 Wood Street  
PO Box 580  
Fort Collins, CO 80522  
**970.221.6700**  
970.221.6619 – fax  
970.224.6003 – TDD  
utilities@fcgov.com  
fcgov.com/utilities

**MEMORANDUM**

**DATE:** March 4, 2013  
**TO:** Mayor and City Council Members  
**THROUGH:** Darin Atteberry, City Manager   
Brian Janonis, Utilities Executive Director   
**FROM:** Jon Haukaas, Water Engineering Field Operations Manager   
Ken Sampley, Stormwater and Floodplain Program Manager   
**RE:** **ITEM NO. 34 – MARCH 5, 2013 COUNCIL MEETING  
FIRST READING OF ORDINANCE NO. 048, 2013, AMENDING  
CHAPTER 10 OF THE CITY CODE RELATING TO DEVELOPMENT  
IN THE POUFRE RIVER FLOODPLAIN**

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Attached please find the following letters regarding comments from Save the Poudre on the Poudre River Floodplain regulations:

- June 29, 2012 Save the Poudre (STP)
- July 12, 2012 North Fort Collins Business Association (NFCBA)
- January 23, 2013 City of Fort Collins Stormwater MP/ FP Admin (Stormwater).

The letters from STP and the NFCBA were originally sent directly to City Council. The Stormwater letter response was originally sent to STP and the Poudre River Floodplain Regulations Working Committee, but has not previously been provided to City Council.

If there are any questions, Staff is available at your convenience.

Attachments



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970.221.6700  
970.221.6619 fax • 970.224.6003 TDD  
utilities@fcgov.com • fcgov.com/utilities

January 23, 2013

Save the Poudre  
P.O. Box 20  
Fort Collins, CO 80522

Attn: Mr. Gary Wockner, PhD, Director

Re: Poudre River Floodplain Regulations – Proposed Revisions

Mr. Wockner,

The following is provided in response to your letter dated June 29, 2012 containing comments on the proposed revisions to the Poudre River Floodplain Regulations outlined in the City Code of the City of Fort Collins. In accordance with discussions at the June 25, 2012 Working Committee meeting, staffs from the City and Poudre Fire Authority (PFA) were tasked with developing the final code language to incorporate proposed revisions to the Poudre River Floodplain Regulations into the City Code for the City of Fort Collins.

The following responses are provided to address the concerns outlined in your letter:

1. Working Committee – Concern that members did not represent a broad range of Fort Collins citizens, organizations and concerns.

The Public Outreach program included extensive efforts to contact and involve representatives from various organizations and perspectives through public meetings, presentations to citizen groups, City Boards and Commissions, and the Working Committee. Stormwater staff invited participation from 8 Business Organizations, 9 Environmental groups, 3 Boards (Planning and Zoning, Water, and Natural Resources Advisory), and 6 City Departments. Many of those contacted (especially representing Environmental interests) chose not to actively participate.

City Council provided initial suggestions for Working Committee Members and meetings were open to all interested parties. Members included representatives from Save The Poudre (STP), the North Fort Collins Business Association, Board of Realtors, Chamber of Commerce, property owners, local engineering consultants and the Water Board. The Working Committee was supported by City staff from Stormwater, Natural Areas, Finance, the City Attorney's Office and the Poudre Fire Authority (PFA). Each Committee Member brought a unique perspective and made valuable contributions to the development of the proposed revisions.

2. Contention that the proposed regulations disregard negative impacts to the sensitive ecology of the Poudre River and surrounding natural areas (ignore beneficial functions of

floodplains, will cause unnatural erosive stream velocities, will push flooding impacts on to publicly-owned natural areas, and offers no mitigation for adverse impacts).

As outlined in City Code, the Poudre River Floodplain regulations promote public health and life safety while working to minimize public and private losses. The regulations seek to maintain a stable tax base by providing for the secondary use and development of floodplains while at the same time protecting natural areas required to convey flood flows and retain flow characteristics. The proposed revisions strengthen the life safety criteria and preserve the requirements already in place through the City's Land Use Code and Poudre River Buffer. Your statements that the entire Poudre River floodway can be developed, that the City does not require the appropriate FEMA processes, and that the proposed regulations push flooding impacts on to public-owned natural areas are incorrect.

3. The proposed regulations shift the expense for evacuation, rescue and clean-up to City taxpayers.

Chapter 10 of City Code states that those who occupy the floodplain assume the responsibility for their actions. Contrary to the concern stated, and to specifically reduce the need for rescue and relief efforts, the proposed revisions to the floodplain regulations include a new requirement that an emergency response and preparedness plan be prepared for new construction, redevelopment of, addition to, or substantial improvement of structures within the Poudre River 100-Year Floodplain. This provision will dramatically improve life safety and reduce the need for rescue and relief efforts.

4. Public funding for the proposed Poudre River Downtown Core Improvements project (2013-14 Budgets) is subsidizing the development of the North College area.

The offer was developed subsequent to the results of the Poudre River Hydraulic Feasibility Study funded solely by Natural Areas and Parks Planning. The goal of the study was to identify potential stream restoration, recreation, and habitat enhancements for this portion of the Poudre River. Elimination of the 100-year flood overflow of North College and subsequent reduction in floodplain and potential flooding damage was a surprise co-benefit of the reconstruction of the Coy diversion and boat chute east of North College Avenue. When Stormwater learned about the study and the potential co-benefits, it was determined that use of up to \$450K of existing funding allocated towards acquisition of properties in the floodplain seemed appropriate to better identify and delineate the 100-year floodplain boundary, thereby eliminating the potential to spend funds on property acquisition that will no longer be in the 100-year floodplain after construction of the improvements;

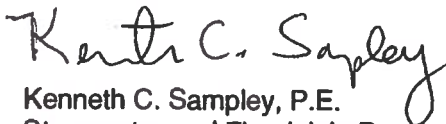
The 2013-14 budget package (series of 5 offers) only includes planning and design costs and is a systematic effort to 1) restore and rehabilitate 0.5 miles of the Poudre River, 2) support the complex effort to provide in-stream flows, 3) design downtown Poudre River core recreation, habitat and stormwater improvements, 4) fund a portion of the Natural Area Director's salary, and 5) build a scientific basis for understanding Poudre River ecology and restoration efforts. The costs total approximately \$750K of budget requests to be combined with \$450K of existing stormwater funding appropriations and other existing appropriations in Natural Areas and Parks Planning. It does not include funding for construction.

Construction funding requests would be anticipated for 2015/16 and are currently estimated in the range of \$3-6 Million for construction. Some private funding of the projects has been expressed. It is anticipated that it will take 2 years to complete the design and permitting associated with the proposed projects and, assuming funding is provided, it will be approximately 4 to 6 years before the downtown core projects would be completed. There are multiple sources of potential funding anticipated that include Natural Areas, Parks Planning, Utilities (Stormwater), Keep Fort Collins Great (KFCG), Building of Basics (BOB), and potential grants. Permitting will include an extensive 404 permit, Conditional Letter of Map Revision, Letter of Map Revision, water supply diversion permits, etc.

The general consensus of the Poudre River Floodplain Regulations Working Committee was to discontinue the development of a scalable Adverse Impact Review (AIR) regulation for the Poudre River in consideration of the future construction of the Poudre River Downtown Core Improvements, the realization that the Link-N-Greens area will develop using a full CLOMR/LOMR process, understanding that the Poudre River RiskMAP process will result in dramatically changed (corrected) floodplain delineation, mapping and flood elevations, taking into account that the Floodway Surcharge Analysis identified primarily small floodway impacts to the Poudre River section within the Mulberry Corridor and noting that the Mulberry Corridor is in the Growth Management Area (GMA) and not within the City Limits.

Contrary to that indicated in your letter, it is our position that the proposed revisions to the floodplain regulations provide increased life safety protection while preserving the requirements already in place through the City's Land Use Code and Poudre River Buffer.

Respectfully,



Kenneth C. Sampley, P.E.  
Stormwater and Floodplain Program Manager

C: Brian Janonis, Utilities Executive Director  
Jon Haukaas, Water Eng. Field Operations Manager



# North Fort Collins Business Association

PO Box 115 Fort Collins CO 80522

July 12, 2012

Fort Collins City Council

Fort Collins CO 80521

Mayor, Mayor Pro Tem, City Council, and City Manager:

Please consider our thoughts on the June 29 memo that was sent to Mr. Ken Sampley from Mr. Gary Wockner, since so much of it pertains to members of our organization.

The NFCBA hastens to remind Council that our member businesses take our responsibility for the safety and well-being of our customers and employees seriously. And we want the Poudre River to be an environmental centerpiece for our City. At the same time, we have confidence in the six years of study City staff put into floodplain regulations which resulted in some of the stiffest in the State of Colorado. We urge Council again to "leave well enough alone."

In his memo, Mr. Wockner states that "There were no citizens or organizations on the committee representing ratepayer's of taxpayer's interests." This statement is untrue. Most NFCBA members are citizens of Fort Collins, and every member is both a ratepayer and a taxpayer. In many cases, commercial property owners and business owners in or near the floodplain pay considerably more taxes than the average citizen. Every business owner in the area contributes to the quality of life in Fort Collins by providing jobs, engaging in charitable activities, and by spending their business dollars in Fort Collins. It is therefore both incorrect and inconsiderate to suggest that we have interests apart from "taxpayers" and "ratepayers."

Mr. Wockner further states that "there is only one organization (Save the Poudre) representing environmental interests." To suggest that other members of the Committee outside of Save the Poudre do not represent environmental interests is again untrue. Mr. Wockner's organization represents one environmental stance. His statement implies that no other member of the Committee might have environmental interests. To the contrary, every hiker, bicyclist, hunter, fisherman and outdoor enthusiast has an environmental interest in the Poudre River. In short, we all do. To imply that membership of the Committee disregards environmental concerns is narrow-minded to the extreme.

"The proposed regulations shift the expense for evacuation, rescue, and clean up to the City taxpayers," says Mr. Wockner. This statement considers that any interest not endorsed by Save the Poudre is not aligned with those of "taxpayers." Once again, we are taxpayers. We care about how government spends the money we entrust to it. The statement also overlooks the fact that protecting the citizenry is a primary function of municipalities, counties and even the Federal Government. Based on the memo, one wonders if fire authorities should not respond to a home fire because it was started by a lit cigarette.

Finally, Mr. Wockner writes that “the proposal being put forward by the City requires a large expenditure of public dollars to take the North College area out of the floodplain.” We repeat that protecting its citizens is the primary function of government.

We appreciate the input of all who care about our City and are willing to help bring North Fort Collins up to the standards of the rest of Fort Collins. We again thank Council for the work being done to upgrade North Fort Collins, and we ask that Council not derail this work with unnecessary regulation.

Thank you for your kind consideration of our concerns.

Respectfully Submitted,

*Dean Hoag*

Dean Hoag, President  
[www.nfcha.org](http://www.nfcha.org)



**June 29, 2012**

**To: Ken Sampley, Fort Collins Stormwater/Floodplain Department**

**From: Save the Poudre: Poudre Waterkeeper**

**RE: Comments on Proposed Fort Collins Floodplain Regulations**

Hello Ken,

Save The Poudre writes to you to express our serious concern and lack of support for the proposed floodplain regulations that are being pushed forward by the City and the Floodplain Working Committee.

**First**, as we have stated many times, we are very concerned about the makeup of the Committee. There were no citizens or organizations on the committee representing ratepayer's or taxpayer's interests, and there was only one organization (Save The Poudre) representing environmental interests. The City failed to put together a committee that represented a broad swath of Fort Collins citizens, organizations, and concerns.

**Second**, the proposed regulations disregard negative impacts to the sensitive ecology of the Cache la Poudre River and surrounding natural areas. For example, the proposed regulations:

- ignore the ecological function of the floodplain – the proposed regulations let every parcel of privately owned land in the flood fringe be developed, and through a FEMA process allow for the entire floodway to be developed. When these floodplain parcels get developed, there will be little if any ecological function of the floodplain occurring on these parcels.
- will likely cause negative impacts to the Cache la Poudre River. Filling in the flood fringe without using the appropriate FEMA process can cause unnaturally erosive stream velocities, excessive stream-bank impacts, excess sedimentation, and habitat destruction for fish and other aquatic species in the river.
- will likely push flooding impacts on to publicly-owned natural areas causing increased negative impacts to riparian and critical wetland habitats. These properties were often purchased to protect the Poudre's ecological corridor, not to be sacrifice zones for negative impacts associated with nearby private property development.



- offer no mitigation for impacts to the Cache la Poudre River or to publicly owned natural areas. When the flood fringe is developed, the developer won't have to do an analysis of impacts on the Poudre or on natural areas, nor address nor mitigate those impacts.

The City has failed to protect the Poudre River, its aquatic species, its riparian habitat, its natural areas, and its floodplain with these proposed floodplain regulations.

**Third**, the proposed regulations shift the expense for evacuation, rescue, and clean up to the City taxpayers. By letting developers build in the flood fringe, there will very likely be financial costs for evacuation, rescue, and clean up that – as has been shown in past floods in Fort Collins – will be paid for by Fort Collins taxpayers. If a landowner builds in the floodplain, the regulations should consider making the landowner pay for evacuation, rescue, and clean up costs. The City has failed to protect taxpayers with these proposed floodplain regulations.

**Fourth**, the proposal being put forward by the City requires a large expenditure of public dollars to take the North College area out of the floodplain through a major engineering and construction project. We have concerns about using large amounts of public money to subsidize the profits of private developers. In this case, we will carefully scrutinize that project to make sure it achieves a public good equal to the public cost.

We do not support the proposed regulations as they were written at the final Working Committee meeting. We look forward to continuing to review future drafts.

The Poudre River is under assault by a variety of threats including dams and reservoirs, proposed development, diminished flows, fire impacts, and water quality impairment due to pollution and runoff. These proposed floodplain regulations increase that assault unnecessarily.

Thank you for considering our comments. We look forward to a response to our comments.



Gary Wockner, PhD, Director  
Save the Poudre: Poudre Waterkeeper  
PO Box 20, Fort Collins, CO 80522  
<http://savethepoudre.org>  
970-218-8310