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MEMORANDUM

DATE: June 30, 2021
TO: Mayor and Councilmembers
THRU: Darin Atteberry, City Manager
 Kyle Stannert, Deputy City Manager
 Jacqueline Kozak-Thiel, Chief Sustainability Officer
 Lindsay Ex, Environmental Services Director
FROM: Cassie Archuleta, Air Quality Program Manager
SUBJECT: Oil and Gas – Regulatory Process Update

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The purpose of this memorandum is to provide an informational update regarding progress on the development of local regulations for oil and gas operations.

Bottom Line

The City is continuing to work towards adopting comprehensive regulations for oil and gas operations, per new local authority granted through recent adoption of Senate Bill 19-181. The appropriate scope for Fort Collins regulations has been a moving target, as these will work alongside State and County regulations, and those regulations have been in flux. In the meantime, there has been no interest in new development within Fort Collins City Limits, but there is redevelopment interest in the City's Growth Management Area (GMA) where conditions of the City/County Intergovernmental Agreement (IGA) would apply. County adoption of revised regulations is expected in July 2021, and a Council Work Session will be scheduled shortly after in Fall/Winter 2021.

Background

The adoption of Senate Bill 19-181 in April 2019 prompted a comprehensive rulemaking overhaul at the State level and marked a fundamental shift in local authorities' ability to regulate oil and gas development. In Fort Collins, accessing mineral resources through oil and gas development within the City is already limited and will become increasingly so as the City continues to grow. Existing development includes one operator and a small field in northeast Fort Collins near residential developments, with ten (10) active wells.

Progress Update

During an initial Council Work Session held on September 16, 2019, staff was directed to begin developing local regulations related to oil and gas development. Concurrently, comprehensive revisions to State rules had proceeded, setting the floor for regulatory updates in Fort Collins. To date, staff has:

- Joined party status to participate in the Colorado Oil and Gas Conservations Commission (COGCC) rulemakings, which concluded on November 23, 2020. New rules resulted in broad changes to state permitting, reporting, operational and setback requirements. The new regulations also defined roles and authorities of local and state governments, as well as improved interagency coordination during the permit review process.
- The City has also joined party status to participate in the Financial Assurance Rulemaking with COGCC, related to sufficiency of financial assurances for O&G operations, including funding plugging, remediation and reclamation activities for wells and sites. This rulemaking is expected to conclude in November 2021.
- Participated in Larimer County rulemakings. The County adopted regulations in April 2020 (Phase I) which predated the conclusion of State rulemakings and is now revising these regulations (Phase II) to increase protections and better align with State regulations. The City has been working with the County to reduce or eliminate surface impacts from oil and gas operations within the Growth



Management Area (GMA), and within City owned properties outside of City limits (e.g., Soapstone Prairie Natural area). Proposed County regulations include strong protections for conserved public lands including City-owned natural areas. County commissioners are expected to consider adoption in July 2021.

- Performed public engagement which has included open houses, and numerous meetings and conversations with City Boards, industry representatives, and environmental and neighborhood groups.
- Presented public feedback at a Council Work Session on January 26, 2021 and received initial Council direction regarding regulatory options for siting new oil and gas development within City limits. Council indicated support for 2000' setbacks (distance of new wells from most occupied structures) and use of industrial zoning.

Existing Operations

The lone operator in Fort Collins, Prospect Energy, has interest in developing in additional formations within the Fort Collins Field at existing wells. A permit for this activity at a well outside of City limits, but within the Fort Collins GMA, was recently submitted to the COGCC on June 25, 2021. This would not include new drilling but would involve hydraulic fracturing and could potentially extend the life of the wells. This development may also introduce increased gas volumes which could be used to generate electricity on site.

Next Steps

With State and County rules nearly complete, staff will be in a position to offer more comprehensive regulations for consideration that include:

- The use of industrial zoning requirements and setbacks for new oil and gas permits (already discussed at a previous Council Work Session), which will effectively eliminate potential space for new wells within City limits;
- Permitting and approval processes, particularly for any changes to existing facilities since new development within current City limits is expected to be restricted by zoning and setbacks;
- Operational specifications for existing wells, designed to replace the Operator's Agreement which expires in 2023.

Staff is working to secure a consultant to assist with these efforts and currently planning to schedule a Council Work Session to review permitting and approval process in Fall/Winter 2021, and targeting code adoption in Spring 2022. During this period, staff will continue to engage the public by soliciting feedback from the operator, boards, commissions, and community members.

Per the pending permit application outside City limits, but within the GMA, staff is exploring regulatory authority with the COGCC, the County and the City Attorney's Office, including but not limited to authority through the City/County Intergovernmental Agreement (IGA) and the current Operator Agreement. If there are options to influence this process, such as an opportunity to annex the property or defer annexation, staff will bring them to Council for consideration.