

# MINUTES

CITY OF FORT COLLINS • BOARDS AND COMMISSIONS



## Land Conservation & Stewardship Board Regular Meeting

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August 8, 2018

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### 1. CALL TO ORDER

5:30 p.m.

### 2. ROLL CALL

- **Board Members:** David Tweedale, Edward Reifsnyder, Joseph Piesman, Andrea Elson, Kelly Ohlson, Marcia Patton-Mallory, Mike Weber, Vicky McLane
- **Excused:** Raymond Watts
- **Staff Members:** Dan Gulley, Mark Sears, John Stokes, Daylan Figgs, Tawnya Ernst, Brandon Poole, Dave Myers, Rick Bachand, Jennifer Roberts
- **Guests:** Mariah Wang, CSU Student; Christi Brockway, Sarah Witherell; Northern Colorado Prairie Dog Advocates, Cole Kramer, Stephanie Blochowiak, Community Development and Neighborhood Services

### 3. AGENDA REVIEW

Board reports will take place at the end of the meeting.

### 4. CITIZEN PARTICIPATION

Mark introduced Dave Myers, as the new Land Conservation Manager. Dave started July 30<sup>th</sup>. Dave's past work experience includes working for Joshua Tree National Park, San Bernadino County Park, Natural Areas Department, Hermit State Park and Colorado State Parks. He will be working directly with Dan Gulley and Tawnya Ernst, on land conservation, monitoring conservation easements, managing and monitoring leases and all easement requests.

Sarah Witherall, Northern Colorado Prairie Dog Advocates thanked the Board for the opportunity to provide a written response regarding the current Prairie Dog Management Guidelines. She reported that a colony in old town north was faced with extermination. The City has come forward to provide relocation space at Cathy Fromme Natural Area. She reported the decision only came after a large public outcry for the relocation.

### 5. APPROVAL OF MINUTES

VICKY MCLANE MADE A MOTION TO APPROVE THE JULY LCSB MEETING MINUTES

EDWARD REIFSNYDER SECONDED THE MOTION

THE MOTION WAS UNANIMOUSLY APPROVED 8-0

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### 6. COMMUNICATION AND BOARD MATTERS

Joe asked if all Board members received documents provided by the Norther Colorado Prairie Dog Coalition.

John reported that he will be meeting with Helen Taylor, with the NCPDA, and two councilmembers Ross Cunniff, and Gerry Horak, to discuss prairie dog management. He will report back to the Board on that meeting.

### 7. NEW BUSINESS ACTION ITEM

#### Intergovernmental Agreement for the Instream Flow Augmentation Plan

**John Stokes, Natural Areas Director**, provided information on an agreement with other parties involved in the Instream Flow Augmentation Plan. John described the agreement to have three phases. Phase I of the plan included extensive due diligence, development of a water court application, drafting “seed water” agreements with the State of Colorado, and various other tasks. Those tasks are ending, and the partners wish to move to Phase II. Phase II would include tasks to acquire approval of the ISF Augmentation Plan from the CWCB and from the District Court for Water Division 1 (“Water Court”).

The idea is to identify stream reaches where water can be dropped into the river and protected from diversion by other users. There are some protected instream flow rights in the canyon but not on the flat land portion of the river. This is something that Fort Collins has been trying to achieve for 40+ years. The partners involved are the City of Fort Collins, City of Greeley, Cache la Poudre Water Users Association, Norther Water, Thornton, Colorado Division of Parks and Wildlife, the Colorado Water Conservation Boards and the Colorado Water Trust.

#### **Discussion:**

Vicky - Were there any concerns with Phase I?

John said the main concern from the State Engineers Office was how the water would be administered. They want to support the project but have concerns because it's a new concept.

Ed - There seems to be no political power, no regulatory guidelines so there seems to be a lot of freedom in taking water out of the river. Is there any entity that would just not allow water to be removed, to maintain a healthy river?

John noted that one thing to keep in mind is that irrigation entities to the east of us have water rights that will continue to be delivered to the Poudre for the foreseeable future. As water is changed to

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municipal use, much of that water is already diverted upstream of Fort Collins. This proposed plan allows for additional water to be added to what is already there.

Marcia - If it becomes an instream flow water right, does it still maintain its seniority?

John reported seniority can be maintained. An example would be ditches in Fort Collins. Those ditches were adjudicated years ago when Fort Collins went to Water Court and changed those rights. Augmentation is one of the approved uses. If we can protect the water for instream flow, we can run it through town, take it out somewhere else like Rigden Reservoir and then we can run it back out of the reservoir to meet our return flow obligations.

Vicky - Of the City's portion of this costs will NAD have to fund any of this?

John reported that the \$25,000 is Keep Fort Collins Great money.

Andrea - Does Glade or NISP (Northern Integrated Supply Project) change any of this?

John reported it doesn't affect it directly. While Northern is a participant in this project they have a bill that passed in last Legislative session that allows an upstream diverter who has water in a reservoir to release that water to the river and run it down to another diversion. This is how they are going to implement their mitigation strategy. They could have done it in this plan but instead introduced a bill and got it approved. NISP does not need this plan to implement its flow-based mitigation.

Kelly - I won't support this because NISP is an environmental tragedy, from wildlife to habitat. The health of the Poudre River will be destroyed. I don't want any part of this. I understand the Board and City's viewpoint, but I'm not interested in the 1% solution. This enables projects like NISP.

Joe - The actual agreement states 'all decisions must be unanimous, and no new entity is created for the project'. You've got five or six users; does that mean that everyone must agree to the flow? What if there is a disagreement between Thornton and City of Fort Collins?

John explained that the agreement is based on consensus. If someone opposes us in Water Court, then they are out of the plan. So far, we've had a very collaborative relationship with the partners. The partnership could be, in some ways, just as important as the project.

Ed - What type of interest would be opposed to this in the long run? How do you react to the statement that this enables project like NISP or other projects?

John believes that some entities may view the plan as a threatening new tool. If it is established on the Poudre River, then others may be threatened by that. For the long haul this is one tool that is bringing people together for a variety of reasons. Even though this could be used as a mitigation component for NISP, they don't need it. They have the bill passed by the Legislature. It's not apparent to me that this is a mitigation tool for any project at this point although it conceivably could be used that way.

David – For \$25,000 I'm not terribly upset, if it's not our money. I'll still tentatively go along with it.

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Sounds to me like a lottery ticket.

VICKY MCLANE MADE A MOTION THAT CITY COUNCIL APPROVE THE AGREEMENT REGARDING PHASE II OF A MULTI-PHASE PLAN FOR AN INSTREAM FLOW AUGMENTATION PLAN ON THE CACHE LA POUDDRE RIVER.

MARCIA SECONDED THE MOTION.

THE MOTION WAS APPROVED 7 IN FAVOR 1 OPPOSED

### **Sale of Water Taps owned by Natural Areas**

**Dan Gulley, Real Estate Specialist**, presented to the Board on the sale of seven water taps to the City Land Bank. The water taps were purchased by Natural Areas as part of land conservation acquisitions. The taps are valued at \$32,000 each. Options are selling the taps to the highest bidders, or to the City's Land Bank for Affordable Housing at a 10% discount. Staff favors the sale to the Land Bank for a guaranteed sale price of \$28,800. Therefore, the net sale will be \$176,600.

#### **Discussion:**

Kelly – Who values the water taps? Is that the true market value? It seems low to me.

Dan explained that the \$32,000 is fair market value.

Kelly – Natural Areas has the options to sell to highest bidders or Land Bank. Are we required to sell it at a discount?

Dan reported that we can go to full price but there's no incentive to them. They did try to negotiate the cost down, but we held our price.

Kelly – Why does NAD have to pay for the anticipated cost for the abandoned water taps? I will be reluctant to be a "yes" on this because we're not in the Affordable Housing business, but perhaps it might be kind of a wash because of the risks.

Dan explained that the water taps are on property that we own, so if we don't sell them we would have to pay the abandonment fee. We're paying over a \$100 a month to keep these taps. There's no incentive or reason to pay for that, otherwise they would be paying above price. These taps are on our properties. The Land Bank is on board with this. They are not completely 100% for sure yet, but we're pretty sure this is going to go through.

Mark explained that because it's an internal, city to city agreement, it doesn't need to be

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approved by City Council. We'll put together a MOU signed by both departments and signed by the City Manager to document that it was done.

KELLY OHLSON MADE A MOTION THAT THE LCSB SUPPORT THE SALE OF THE CITY'S SEVEN WATER TAPS PLUS THE SEWER TAP TO THE CITY LAND BANK AT A 10% DISCOUNT.

VICKY MCLANE SECONDED THE MOTION

THE MOTION WAS UNANIMOUSLY APPROVED 8-0

### **DISCUSSION ITEM**

#### **Environmental Protection and Development Review**

**Stephanie Blochowiak, Environmental Planner, Community Development and Neighborhood Services**, presented on the City's environmental protection requirements for development projects and how projects are tracked for compliance. Stephanie presented on the development review process and components of the process. Her development review includes working with contractors, third parties, developers, builders and other city departments. She discussed the community priorities, code requirements, best management practices and successes of the work she's done.

#### **Gateway Natural Area Management Plan Update**

**Rick Bachand, Environmental Planning Manager, Jennifer Roberts, NAD**

**Environmental Planner and Brandon Poole, NAD Technician II**, provided an overview and draft recommendations for the initial Gateway Natural Area Management Plan. Staff summarized the public outreach efforts and provided a summary of the community surveys. Gateway is unique to natural areas and provides more of a park atmosphere, but survey results demonstrated 80% of respondents were satisfied or very satisfied with their experience at Gateway. Survey results showed 91% of the respondents supported the Natural Areas recommendations. Some of those recommendations included eliminating parking off Hwy 14, include preservation of a bat colony at the water treatment at Gateway and restructuring the parking lot to add additional parking,

John mentioned the issue of the Seaman Reservoir, Greeley's water storage project. Greeley is looking at building a new damn or rebuilding the existing damn. There may be some Council discussion about that in the next 4-6 months.

#### **2019 Land Conservation and Stewardship Board annual work plan.**

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Joe suggested Board members making any amendments to the 2019 Workplan and then sending to the Board via e-mail and bringing back to the Board for the September meeting.

Board members suggested taking out the management plan work from the 2018 workplan, as those have been updated and looking at some of the other items on the workplan that have been completed. Daylan agreed to take an initial review of the 2018 Workplan. Joe wanted to add NISP, other Poudre River initiatives and Meadow Springs transmission line to the 2019 Workplan.

### 8. BOARD MEMBER REPORTS

Marcia reported from the Bicycle Advisory Committee regarding e-bikes. She distributed a recent draft of the pilot e-bike. Marcia would like Board members to reply to her via e-mail. The main concern was the assessment and criteria for evaluating the survey. She requested any recommendations from the Board be sent to her as well. The next meeting is August 27<sup>th</sup>.

David reported on City Council calendar items:

August 15<sup>th</sup> Open House – Roundhouse Renewable Energy Open House, 4-7 pm at N. Aztlán Center

Next Tuesday, August 14<sup>th</sup>, City Council, in a Work Session, they will review BFO assumptions.

August 21<sup>st</sup> City Council meeting, oil and gas buffers and changes to the Land Use Code.

Sept. 4<sup>th</sup>, Regular meeting to discuss the Montova Development Plan.

Mark announced the Longview Trail Grand Opening on August 18<sup>th</sup>, from 8- 11am. Details are posted on the NAD website.

John suggested not going into Executive Session since members of the public had left the meeting.

### Land Conservation

**Mark Sears, Natural Areas Department Manager**, reported on recent land negotiations and provided the Board with a copy of the Confidential Land Conservation Report that is sent to City Council on a Quarterly basis.

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### 9. OTHER BUSINESS

### 10. ADJOURNMENT

Meeting adjourned 8:57 pm.