



TOWN BOARD WORK SESSION

August 2, 2021 - 5:30 PM

Town Board Chambers, 301 Walnut Street, Windsor, CO 80550 Please click this URL to join. <https://windsorgov.zoom.us/j/83249900613> OR join by telephone at (888) 788-0099 or (877) 853-5247 - Webinar ID: 832 4990 0613

GOAL of this Work Session is to have the Town Board receive information on topics of Town business from the Town Manager, Town Attorney and Town staff in order to exchange ideas and opinions regarding these topics.

Members of the Public in attendance are asked to be recognized by the Mayor before participating in any discussions of the Town Board

AGENDA

1. Presentation of COGCC Rulemaking Changes - Scott Ballstadt, Director of Planning
2. COGCC "Financial Assurances" Rulemaking - Ian D. McCargar, Town Attorney
3. Snow Plow Discussion - Eric Lucas, Director of Public Services
4. Boardwalk Park Discussion - Eric Lucas, Director of Public Services
5. Future Meetings Agenda

The Town of Windsor will make reasonable accommodations for access to Town services, programs, and activities and will make special communication arrangements for persons with disabilities. Please call (970) 674-2400 by noon on the Thursday prior to the meeting to make arrangements.



MEMORANDUM

Date: August 2, 2021
To: Mayor and Town Board
Via: Shane Hale, Town Manager
From: Scott Ballstadt, Director of Planning
Re: Presentation of COGCC Rulemaking Changes
Item #: 1.

Background / Discussion:

Colorado Oil and Gas Conservation Commission (COGCC) Chairman Jeff Robbins will be joining the work session remotely at 5:30 p.m. to provide an overview and discuss new and revised COGCC rules resulting from the recent rulemaking processes.

ATTACHMENTS:

- ▢ COGCC Chairman Jeff Robbins Presentation

Colorado Oil & Gas Conservation Commission: Mission Change Rulemaking Overview

Town of Windsor

August 2, 2021



COLORADO
Oil & Gas Conservation
Commission

Department of Natural Resources

Jeff Robbins
Commission Chair

Overview of SB 19-181

Gov. Polis signed SB 19-181 on April 16, 2019

- Reconstituted the Commissioners (twice)
- New mission for the COGCC
- New local government authority over surface impacts and siting
- Directed COGCC to undertake numerous rulemakings



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SB 19-181 Rulemakings: Completed

500 Series (COGCC hearing process),
July 2019

Flowlines (pipelines that COGCC
regulates), November 2019

Wellbore Integrity (groundwater
protection), June 2020

Mission Change (*change from foster to
regulate*), November 2020



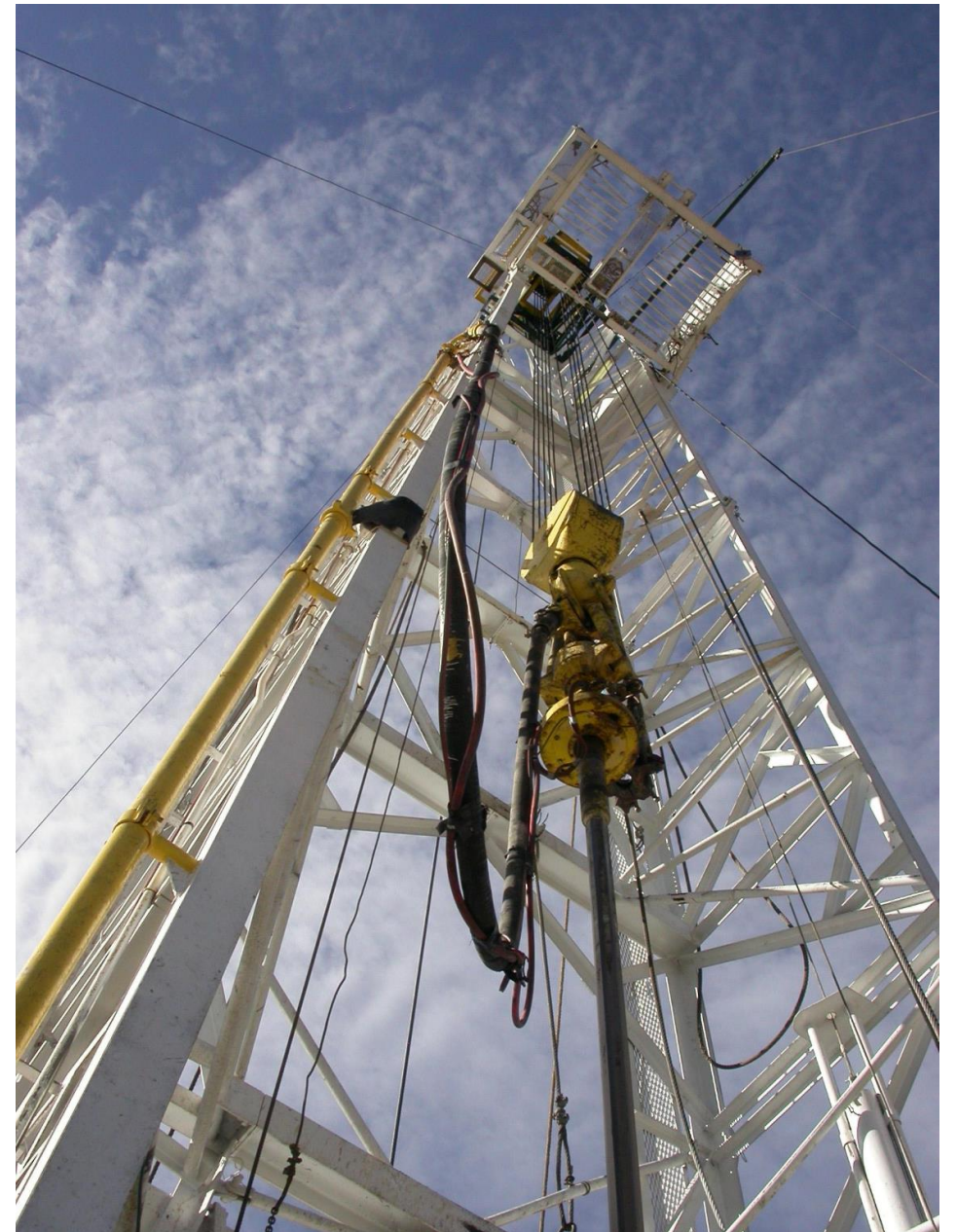
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SB 19-181 Rulemakings: Timing

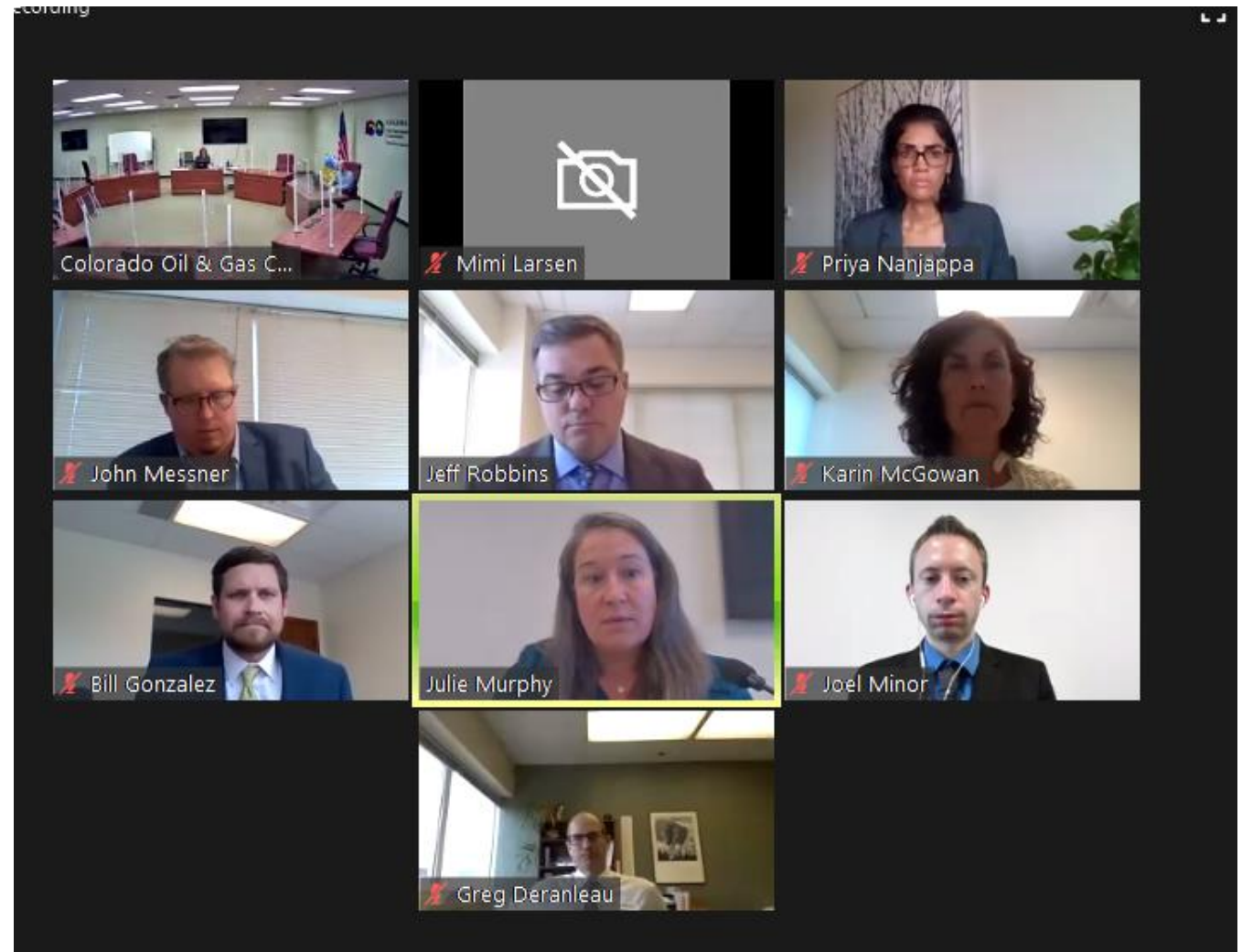
Mission Change Rulemaking Hearings:

- 200-600 Series focusing on Mission Change, Alternative Location Analysis, Cumulative Impacts, Local Government Provisions
- 800, 900 & 1200 Series focusing on Mission Change and Wildlife
- Nov. 23, 2020: Final rules adopted
- Jan. 15, 2021: Effective date for Rules



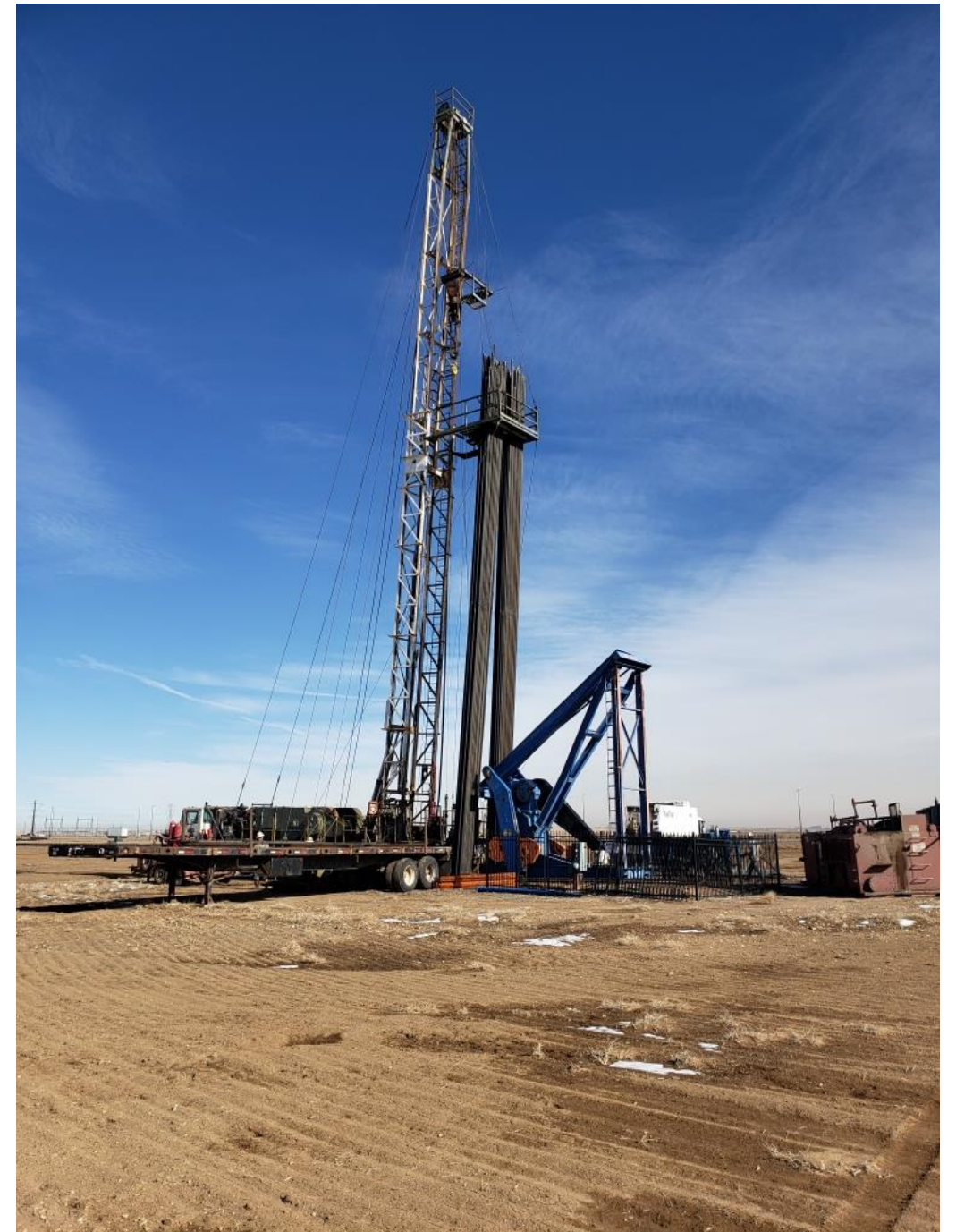
SB 19-181 Rulemakings: Process

- **Commitment to transparency & public engagement**
- **Implementation: move the statute into rules**



SB 19-181: Reflect the bill's spirit & mandates

- **Key issues addressed**
- **Significant changes & outcomes from this rulemaking include:**
 - Public Participation
 - Increased Protections for Public Health, Safety, Welfare, Wildlife & Environmental Resources



Mission Change Rulemaking for the 200-600, 800, 900 & 1200 Rules:

- 200 Series: General Provisions
- 300 Series: Permitting Process
- 400 Series: Operations & Reporting
- 500 Series: Rules of Practice & Procedures
- 600 Series: Safety & Facility Operations Regulations
- 800 Series: Underground injection for Disposal & Enhanced Recovery Projects Provisions
- 900 Series: Environmental Impact Prevention
- 1200 Series: Protection of Wildlife Resources



200 Series- General Rules

- Transfer of Permits
- Due Process
- Streamline and modernize processes for handling confidential information



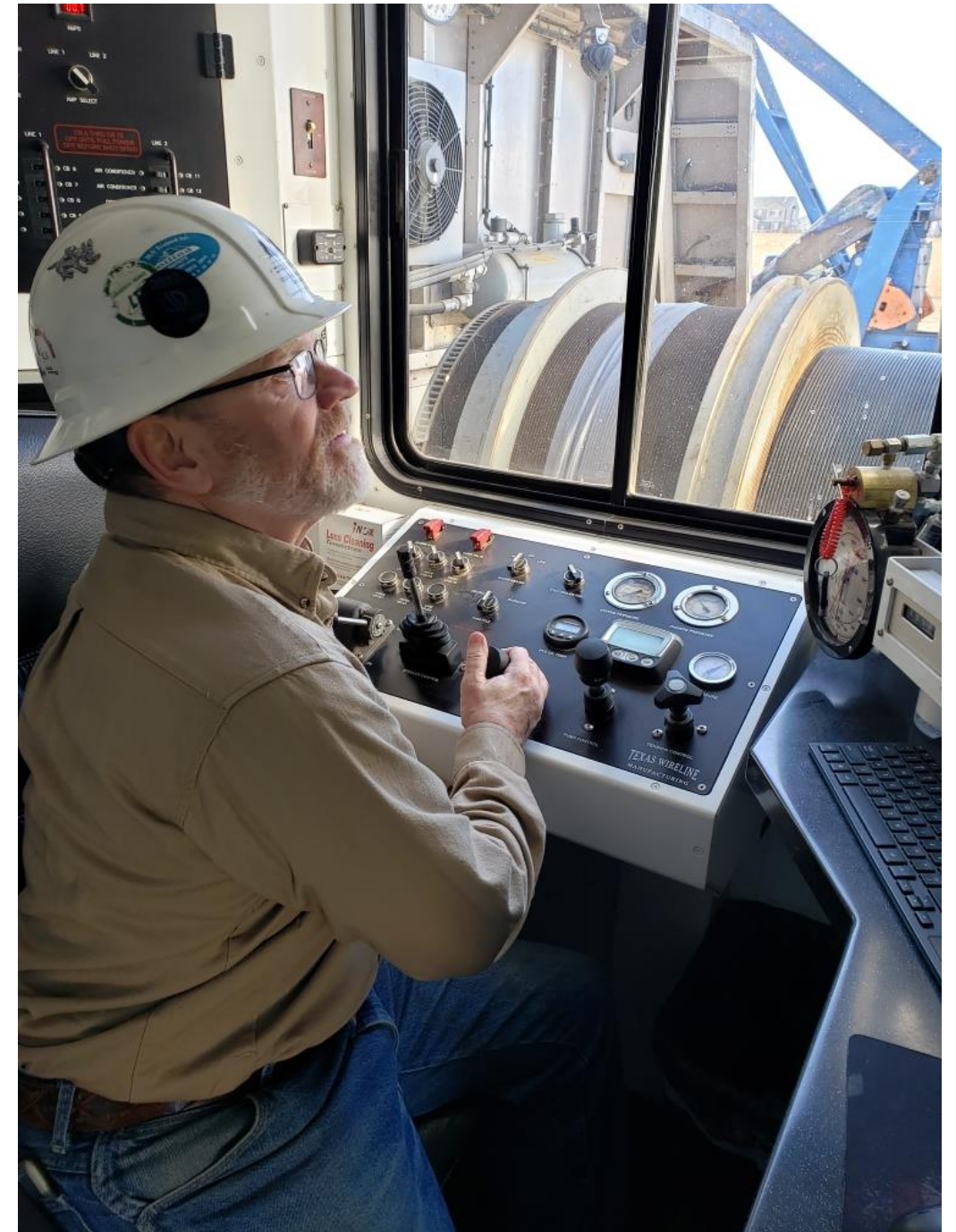
300 Series- Permitting Rules

- Define the relationship between local & state governments
- Consideration of disproportionately impacted communities
- Cumulative Impacts
- Alternative Location Analysis
- Comprehensive Area Plans



400 Series- Operations & Reporting

- Expand rules to protect public water systems
- Adopt statewide prohibition on certain chemical additives in hydraulic fracturing fluid
- Notifications
- Noise & Nuisance



500 Series- Rules of Practice & Procedure

- Expand public access to Commissioners
- Expanded the definition of “Standing”
- Expand public access and information



600 Series- Safety & Facility Operations Regulations

- Expand protective setbacks and siting requirements for schools & homes to 2,000 feet, except for when protective measures are in place and the Commission approves.
- ❖ Rule 602.b includes 4 “off-ramps”:
 1. The well location is already within an approved comprehensive drilling plan or comprehensive area plan.
 2. Specific equipment that has the greatest noise and emissions, including wells, tanks, separation equipment, or compressors are located more than 2,000 ft. from buildings.
 3. The commission finds after a hearing that companies have taken “substantially equivalent” protections for public health and safety.
 4. A property owner or tenants sign a special waiver agreeing to have a well pad built closer than 2,000 ft.



800 Series- Underground injection for Disposal & Enhanced Recovery Projects Provisions

- Strengthen protections for groundwater
- Adopt Colorado's first-ever substantive regulatory requirements
- Incentivize underground injection of waste fluids as a best practice for management

900 Series- Environmental Impact Prevention

- Prohibiting routine venting & flaring of natural gas
- Evaluate the cumulative impacts of oil & gas development through Commission's "CIDER" database



1200 Series- Environmental Impact Prevention

- Require avoidance of Colorado's most critical habitats
- Compensatory mitigation requirements
- Protect aquatic habitats
- Minimize disturbance in big game winter range & migration corridors



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Mission Change Implementation Next Steps

Jan. 15, 2021: Effective date for Rules

- Extensive outreach and guidance for operators, stakeholders, Staff
- 14 Online Forms: Revised 11 forms & created 3 new Forms
- COGCC is able to receive new permit applications
- Replace permits under new rules
 - By March 1, 2021: Operators to notify COGCC which of the current well locations & well applications they will replace



SB 19-181: Additional Rulemakings

- Commission will take up 3 final SB 19-181 rulemakings in 2021:
 - Financial Assurances
 - Worker Safety
 - Permit Fees



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MEMORANDUM

Date: August 2, 2021
To: Mayor and Town Board
Via: Shane Hale, Town Manager
From: Ian D. McCargar, Town Attorney
Re: COGCC "Financial Assurances" Rulemaking
Item #: 2.

Background / Discussion:

At my request, the Town has been made a party to the COGCC's Financial Assurances Rulemaking proceedings. Our specific focus in the Rulemaking is providing comments on how the COGCC rules can protect landowners from contaminants in and around oil and gas sites. I am working with Planning Director Scott Ballstadt and Town Manager Shane Hale to develop a statement of our position for consideration by the COGCC, and we are seeking Town Board input.

Under current rules (and proposed rules), oil and gas operators must post cash or surety bonds to back up their obligations to reclaim oil and gas sites. These "financial assurances" are under review in the Rulemaking process. We are not subject matter experts when it comes to requirements for site reclamation, but we have some experience with a source of contamination that finds its way into oil and gas sites: fire-fighting foam.

You may recall we were forced to terminate a land purchase recently. In our example, a fire broke out at the well site and was extinguished by local fire crews using foam commonly used in these situations. The foam contains Per-and polyfluoroalkyl substances ("PFAS") and Perfluorooctane Sulfonic Acid ("PFOS"). These substances are recognized environmental contaminants and are regulated by the Environmental Protection Agency.

From what we can gather, the current rules for financial assurances do not extend to mitigation of contamination from firefighting foam, so that a site that has experienced a fire event can be given a "No Further Action" approval by the COGCC, yet the contaminants from fire foam remain on-site. This is what occurred on the farm we contracted to purchase. Our environmental firm found excess levels of PFAS and PFOS on the property years after the fire event and years after the COGCC issued a "No Further Action" finding following the fire. Neither the Town nor the property owner were prepared to undertake the required clean-up, which involved removal of the soil, transportation of the soil to an approved incinerator, and replacement of the soil with clean fill. Cost estimates for mitigation of the contaminants in some scenarios approached the purchase price of the property. The property owner was not prepared to undertake clean-up. The operator did not undertake clean-up. The transaction failed as a result. The property owner now has actual knowledge of a recognized environmental contaminant on the property.

Attached is a draft statement of our proposed comments to the COGCC. We are asking for your input into the spirit and content of the attached, so that we may file our comments as permitted under the Rulemaking process. Please review the attached, and be prepared to provide us guidance on how we state our position when it comes to this subject.

Financial Impact:

None

Relationship to Strategic Plan:

Quality of life

Recommendation:

Consider whether the Town should comment on proposed Financial Assurances rules; if so, provide staff with guidance on tone and content of comments

CC:

Shane Hale, Town Manager
Scott Ballstadt, Director of Planning

ATTACHMENTS:

- ▯ Discussion draft, Comments to COGCC re: fire-fighting foam

8-2-21 DRAFT WRITTEN COMMENTS FOR COGCC RULEMAKING (Financial Accountability)

Summary of Comments: The Town of Windsor urges the Colorado Oil and Gas Conservation Commission to adopt financial accountability requirements that will assure the costs of evaluating and remediating fire suppression-related environmental contaminants are covered, even where the operator may otherwise satisfy COGCC clean-up requirements for exploration and production fluids.

History and Context: The Town was recently forced to pull out of a purchase of land and related water rights due to detection of contaminants related to a fire at an oil and gas exploration site in Weld County. The Town's Phase I Environmental Study revealed chemical compounds at the site typically associated with fire-fighting foam used during fire suppression activity. The Phase II Environmental Study confirmed excessive levels of Per- and polyfluoroalkyl substances (PFAS) and Perfluorooctane Sulfonic Acid (PFOS) in the soils in and near the site. These compounds are recognized environmental contaminants and are subject to concentration limits promulgated by the EPA.

Regulatory Lapses: Tests for these common fire-fighting substances were not conducted at and around the site following the fire, even though fire-fighting foam was used by local firefighters. The COGCC issued a "No Further Action" determination for exploration and production fluids at the site. The fire suppression compounds emerged some four years later as an environmental contaminant at the time the Town was conducting its due diligence. During this interim period, the landowner continued to farm the surrounding property, potentially stirring and redistributing the PFAS and PFOS throughout the farm.

Impacts: The estimated cost of mitigation, which required removal and off-site hazmat disposal of soil to several feet in depth, nearly exceeded the purchase price for the affected land. The Town was unwilling to accept the property with the contaminants in place. The landowner could not shoulder the cost of remediation. The operator was under bankruptcy protection and did not step in to remedy the situation. The buy-sell transaction fell apart over this. The landowner now has property known to be contaminated with chemicals on the EPA's list of recognized environmental contaminants, thus limiting the property's general marketability. Assuming farming continues as before, the contaminants are at risk of dispersion through field preparation practices.

Suggested rule change: Prior to a "NFA" determination at a site where fire suppression activity has taken place, the operator should be required to provide certification from a competent environmental firm that areas affected by environmental contaminants associated with fire suppression compounds are (a) below EPA regulatory tolerances, or (b) have been mitigated to achieve levels within EPA tolerances. Until such a certification can be provided, the operator should be required to post a surety bond sufficient to cover evaluation and mitigation costs until the site is evaluated and a qualified certification is presented.



MEMORANDUM

Date: August 2, 2021
To: Mayor and Town Board
Via: Shane Hale, Town Manager
From: Eric Lucas, Director of Public Services
Re: Snow Plow Discussion
Item #: 3.

Background / Discussion:

The Town Fleet Committee consisting of (Shane, Dean, Rick, John, Chris Dempsey, and myself), met earlier this month (July 13), to review and discuss all capital fleet requests for the 2022 budget. This serves as the annual meeting in preparation of official budget submittal and subsequent meetings with the Mayor and Town Board later this year.

In the meeting, the Public Works Department requested the addition of one snow plow to the fleet. During justification discussions (these occur for every request), we learned that the lead time for a snow plow is around 18 months. Meaning if we ordered the plow today we would be expecting a delivery time into the first quarter of 2023. As the conversation continued it became clear to the team that our snow plow fleet (# of trucks) has not kept pace with the amount of road miles we have added over the years (see chart below).

Year	Center Lane Road Miles	Plow Trucks in Fleet
2010	128	5
2015	150	6
2020	263	7
2025	315*	9

* Denotes projected 52 additional miles known development

With the expected growth in roads and extreme lead time we determined that the best path forward for the Town would be to order two (2), snow plows given that we wouldn't expect to see either until late 2022 or early 2023. Thus, the purpose of the meeting is to discuss the need for the additional snow plows and request approval to order two snow plows, knowing we would not receive them almost 2 winters from now (late 2022 / early 2023).

Working with the planning department, we can expect to see road miles grow by an additional 52 center lane miles over the next 5 years. Developments such as Raindance, Harmony Ridge, Fossil Creek, Windsor Villages at Ptarmigan and Tacincalla are all driving the current and future growth in road miles. To put this growth and our current deficit into perspective, the national standard for lane miles per truck is 25. We currently have a fleet of 7 trucks with 263 lane miles, which equates to 37 MPT (miles per truck). If we didn't add a single lane mile but added 2 more trucks we would be at an average of 29 MPT. Knowing we can expect 52 miles of additional roads added to our system in the very near future; if we do not add a truck our average will rise to 45 MPT. The addition of two trucks will enable the Town to maintain a fleet of 9 snow plows with a 35 MPT average.

Ultimately, the miles per truck can be equated into two key factors that are critical in snow plowing operations. A higher MPT means a lower level of service (LOS) as a result of slower response times for all roads throughout the system and a reduction in driver safety. A lower MPT means increased LOS and improved road conditions that improve safety. Additionally, considerations to reduce or maintain our current MPT by adding to the fleet is the overall wear and tear on all trucks (less miles/less wear), and flexibility in the fleet for breakdowns.

Financial Impact:

If approved, the financial impact would be \$400,000 to the 2022 Fleet CIP budget and \$400,000 to the 2023 Fleet CIP.

Recommendation:

Staff is recommending that the Town Board approve the ordering and subsequent purchase of 2 snow plow trucks to the public works fleet.

CC:

Paul Schwindler, Deputy Director of Public Works
Brian Rowe, Public Works Superintendent



MEMORANDUM

Date: August 2, 2021
To: Mayor and Town Board
Via: Shane Hale, Town Manager
From: Eric Lucas, Director of Public Services
Re: Boardwalk Park Discussion
Item #: 4.

Background / Discussion:

Over the years the popularity of Boardwalk Park and Windsor Lake has grown exponentially, due in part to Windsor's continued growth and the fact that we have the only free swim beach in Weld County. The latter provides for a very popular, quick destination for visitors in neighboring communities who do not want to travel to destinations like Horsetooth Reservoir in Larimer County. Unfortunately, with an increase in popularity comes increases in unwanted behaviors both illegal and otherwise.

Examples of prohibited and concerning behaviors we have seen include but are not limited to theft, weapons, complaints about alcohol use, illegal drugs, vandalism/graffiti, hostility toward staff and visitors and vulgar language. All of which has created a workplace that is not suitable for many of our 14 – 16yr old seasonal employees as well as our full time 18+ employees. Additionally, this behavior negatively impacts residents and visitors who come to the park to enjoy the day and behave in appropriate manners. Beyond the aforementioned negative impacts, parking in the park, DDA lot(s) and residential side streets pose additional burdens on the area.

In past years staff has spoken briefly with Town Board on increasing concerns and behaviors. We have taken action such as increased use of the Colorado Rangers, a volunteer organization of retired police officers, increased Windsor police presence when staffing permitted or at an overtime cost, as well as training staff on de-escalation skills and what to do in case of an event such as an active shooter (Run, Hide, Fight). While these efforts have aided in getting us to this point in time, leadership believes that we have reached a critical juncture where the behaviors and activities of some park visitors are making the experience at the park an uncomfortable one for staff and users and we believe without some significant action taken it is only a matter of time before we see a significant incident(s) occur.

Therefore, the purpose of the presentation will focus on the issues we are currently facing along with suggested immediate and short-term solutions that staff is prepared to take. These include a study this fall (already budgeted), to examine and recommend things such as CPTED (Crime Prevention Through Environmental Design), park passes, non-resident user fees and other concepts that the board can consider in the near future. The most immediate and significant action that staff will be seeking from the Board is permission to hire a police officer that will work their 40-hour shift at Boardwalk Park during the summer season (Th-Sun). This would create a consistent police presence, provide the ability to write citations and enforce park and Town rules & ordinances. Additionally, this officer would supplement police traffic/street support during the non-summer season.

Financial Impact:

The financial impact of hiring an officer (including benefits) is approximately \$91,000 annually.

Recommendation:

Staff will be seeking approval to hire a police officer to work primarily at Boardwalk Park during the summer as well as supplement the Police department in other areas of need during the off season.

CC:

Tara Fotsch, Deputy Director of Parks, Recreation & Culture
Rick Klimek, Chief of Police
Aaron Lopez, Administrative Commander, Windsor Police Department



MEMORANDUM

Date: August 2, 2021
To: Mayor and Town Board
Via: Shane Hale, Town Manager
From: Trisha Conway, Deputy Town Clerk
Re: Future Meetings Agenda
Item #: 5.

ATTACHMENTS:

- ▢ Future Meetings Agenda



FUTURE TOWN BOARD MEETINGS

August 9, 2021 5:30 p.m.	Town Board Work Session Board – Manager – Attorney Monthly Meeting IGA with Greeley on Open Space Land
August 9, 2021 7:00 p.m.	Town Board Regular Meeting
August 16, 2021 5:30 p.m.	Town Board Work Session Poudre River Trail Corridor Authority Future Plans Broadband Discussion Tanko Lighting Update
August 23, 2021 5:30 p.m.	Town Board Work Session Personnel Preview
August 23, 2021 7:00 p.m.	Town Board Regular Meeting
August 30, 2021	Cancelled – 5 th Monday
September 6, 2021	Cancelled – Labor Day Holiday
September 13, 2021 5:30 p.m.	Town Board Work Session Budget: Capital Improvement Plan
September 13, 2021 7:00 p.m.	Town Board Regular Meeting
September 20, 2021 5:30 p.m.	Town Board Work Session
September 27, 2021 5:30 p.m.	Town Board Work Session Budget: Capital Improvement Plant Follow-up Questions
September 27, 2021 7:00 p.m.	Town Board Regular Meeting
October 4, 2021 5:30 p.m.	Town Board Work Session
October 9, 2021 8:00 a.m – 2:00 p.m.	Town Board Operational Budget Retreat
October 11, 2021 5:30 p.m.	Town Board Work Session

October 11, 2021 7:00 p.m.	Town Board Regular Meeting
October 18, 2021 5:30 p.m.	Town Board Work Session Comprehensive Fee Update
October 25, 2021 5:30 p.m.	Town Board Work Session
October 25, 2021 7:00 p.m.	Town Board Regular Meeting

Future Work Session Topics

- DDA Entertainment District
- Telecom Code (Pending FCC Rules)
- Regional Water Treatment Plant Site
- Presentation by Carolyn Steffl regarding SB21-262 – Special District Transparency
- Proportional services and amenities for planned population
- Economic development/retail needs based on population levels (following retail assessment)
- Budget: Follow-up Budget Items – October 25th
- Comprehensive Fee Update (October)