



TOWN BOARD WORK SESSION

August 3, 2015

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.

The August 3, 2015 Town Board Work Session has been cancelled so that members of the Town Board can attend the Task Force Rule Making Outreach Meeting, conducted by the Colorado Oil and Gas Conservation Commission (COGCC).

This meeting will be held Monday, August 3, 2015, beginning at 5:30 p.m. in the Events Center at the Weld County Administration Building, 1150 O Street, Greeley.

Scott Ballstadt, Director of Planning, will be attending and participating in the session.

The Governor's Task Force Rulemaking Outreach Meetings Schedule and Information can be found at: <http://cogcc.state.co.us/reg.html#/rules/gtfrulemaking> and is also included in the attachments to this agenda.



MEMORANDUM

Date: August 3, 2015
To: Mayor and Town Board
From: Kelly Arnold, Town Manager
Re: Staff recommendation of Recommendation #17 and #20

Background / Discussion:

Staff's review of Recommendation #17 and Recommendation #20

Recommendation #17: This is a good concept; however, it will be a logistical challenge to coordinate all necessary meetings, negotiations and CUG process.

- This process won't apply if the local government and operator have already reached an MOU.
- If they don't have an MOU, the operator meets with LGD and COGCC to consult regarding large-scale oil and gas facility prior to filing an Oil and Gas Location Assessment (Form 2A).
- In Windsor, this will require CUG approval prior to submitting a Form 2A to COGCC, as Windsor permits oil and gas facilities as a conditional use in all zoning districts (Section 16-7-60(a) of the Windsor Municipal Code).
- Recommendation #17 provides for mediation if a location cannot be agreed upon and, ultimately, a hearing before the COGCC where the local government can present evidence.
- All of this is required to take place within 90 days of the first meeting with the local government.

Recommendation #20: Includes the following concept: "2. The Planning Department of participating municipalities will prepare a comprehensive map of potential future drilling and production sites within its jurisdiction, overlaid on the existing Comprehensive Plan Map." This could be problematic and burdensome for municipalities.

- Rather than have the proposed oil and gas sites depicted in the comprehensive plan and have the jurisdictions plan around them, it seems the logical process would be to require the oil & gas operators to review a town's comprehensive plan and reach out to learn what developments are occurring and where so they can plan their facilities around those plans.
- State statute (CRS 31-23-206) dictates the contents of a comprehensive plan, or master plan, and also requires extensive notification processes to other jurisdictions every time an update occurs.
- Given the pace of oil and gas development, the map would likely become quickly outdated, and citizens/developers would be making land use decisions based on a dated map.
- It seems that this would require municipalities to constantly review and update the land use map (Windsor normally reviews annually).

Attachments:

Outreach Meeting Overview
Recommendation #17
Recommendation #20



COLORADO

Oil & Gas Conservation
Commission

Department of Natural Resources

1120 Lincoln Street, Suite 801
Denver, CO 80203

June 16, 2015

The Colorado Oil and Gas Conservation Commission is beginning the rulemaking process to implement Recommendation Nos. 17 and 20 from the Governor's Oil and Gas Task Force. Recommendation No. 17 addresses local government collaboration with oil and gas operators concerning locations for "Large Scale Oil and Gas Facilities" in Urban Mitigation Areas. Recommendation No. 20 would require oil and gas operators who are registered with the COGCC to also register with municipalities in which they operate and, at the request of the municipality, provide certain information about current and planned drilling operations in the municipality.

COGCC staff will be conducting outreach meetings across the state to hear from local governments and other interested stakeholders about how Recommendation Nos. 17 and 20 can be implemented most effectively. COGCC is planning meetings along the Front Range to be hosted by the City of Brighton, the City and County of Broomfield, and a Weld County municipality. Additional meetings will be held on the West Slope and in La Plata County. COGCC will begin drafting proposed rules after these initial outreach meetings and will conduct formal stakeholder meetings in late summer or early fall.

Copies of Recommendation Nos. 17 and No. 20 are attached. Other final Task Force Recommendations pertaining to the COGCC were acted upon by the General Assembly or can be implemented without formal rulemaking. The COGCC will not conduct rulemaking related to proposed recommendations that did not receive two thirds majority support from the Task Force and, therefore, those recommendations will not be discussed during the outreach meetings.

Brief descriptions of Recommendation Nos. 17 and 20 and questions or issues of interest for stakeholder input during the outreach meetings follow.

Recommendation No. 17

Process for Local Government Consultation

Recommendation No. 17 contemplates that the COGCC adopt a consultation process for enhancing local government participation during COGCC's permitting process if an oil and gas operator proposes to locate a "Large Scale Oil and Gas Facility" in an Urban Mitigation Area. The consultation process is intended to be a collaboration by which the local government and the operator agree on the site location and operational practices for such a facility. Under the Recommendation, the operator is required to offer to consult with the local government before selecting the facility location. One objective of the outreach meetings is to discuss how to create an effective and efficient local government consultation process.

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Commissioners: Thomas L. Compton - Chairman, Richard Alward, John H. Benton, DeAnn Craig,
James W. Hawkins, Tommy Holton, Andrew L. Spielman, Mike King, Dr. Larry Wolk
John W. Hickenlooper, Governor | Mike King, Executive Director, DNR | Matthew J. Lepore, Director



Defining “Large Scale Oil and Gas Facilities”

A second objective of the outreach meetings is to discuss the metrics for determining what should constitute a “Large Scale Oil and Gas Facility,” taking into account factors such as the scale and intensity of operations and proximity to people. Developing unconventional oil and gas formations, such as the Niobrara Shale, using horizontal drilling and hydraulic fracturing is generally leading to higher volume production from larger scale facilities compared to conventional production. At some point, the scale and intensity of a facility warrant differentiation as a Large Scale Oil and Gas Facility.

At present, “Large Scale Oil and Gas Facility” is not defined in COGCC Rules. Some metrics by which scale and intensity might be quantified include:

1. The anticipated time required to drill and complete the wells proposed for a multi-well location;
2. The total volume of on-site storage capacity necessary to support initial (“flush”) production;
3. The anticipated time during which multiple drilling and completion operations would be occurring simultaneously (“simultaneous operations”) on a proposed facility;
4. Whether an oil and gas facility would be categorized as a “Major” or “Synthetic Minor” source under Colorado Department of Public Health and Environment Regulation No. 7.

COGCC is seeking stakeholder input on these and possible other metrics to help define what constitutes a Large Scale Oil and Gas Facility.

Siting Tools and Mitigation

Recommendation No. 17 also proposes that COGCC address the authority of the Director to regulate the siting of Large Scale Oil and Gas Facilities and to require mitigation measures to reduce impacts on neighboring communities. This could include siting tools to locate such facilities away from residential areas when feasible. A third objective of the outreach meetings is to discuss potential additional mitigation requirements, considering COGCC’s existing Rules. Issues of interest to COGCC include:

1. Are there specific mitigation measures beyond those currently required under COGCC Rule 604.c.(2) and (3) that should be considered or required for Large Scale Oil and Gas Facilities?
2. What specific criteria should trigger additional mitigation measures?

Recommendation No. 20.

Recommendation No. 20 proposes to require oil and gas operators to register with municipalities in which the operator has current or planned operations and, at the request of the local government, to submit certain information regarding the operator’s drilling plans within the municipality for the next five years.

Recommendation No. 20 was proposed to provide a framework to incorporate oil and gas operators’ drilling plans into municipal comprehensive planning. Better coordination between oil and gas

development plans and a municipality's Comprehensive Plan, as proposed by Recommendation No. 20 is intended to reduce conflicts between planned oil and gas development and a municipality's goals and aspirations related to transportation, utilities, land use, open space, recreation, and housing.

COGCC welcomes stakeholder input on effective means of implementing Recommendation No. 20. Potential issues to be considered include:

1. Is a municipality's request for drilling plans from an operator a "one time" event, or is an operator required to submit periodic updates?
2. What constitutes a "material alteration" of a five year drilling plan, such that an update is required?
3. If a municipality identifies a potential conflict with a proposed drilling location, when is mediation required and who may request or compel mediation?
4. What happens if a municipality does not provide a Comprehensive Plan Map overlaid with future drilling and production sites to a registered operator, or provides a map but fails to identify a significant conflict between proposed drilling and other current and planned future uses that subsequently arises?
5. What consequences, if any, arise if either the operator or a municipality fails to timely update their respective plans or maps?

The Commission and COGCC staff look forward to creating rules that enhance collaboration between local governments and industry and ensure Colorado's oil and gas resources continue to be developed responsibly.

Task Force Recommendations

The following nine recommendations have been approved by the Colorado Oil and Gas Task Force as its final recommendations to the Governor. Each recommendation included in the Task Force Recommendations exceeded the two-thirds voting threshold established by the Governor.

RECOMMENDATION TO FACILITATE COLLABORATION OF LOCAL GOVERNMENTS, COLORADO OIL AND GAS CONSERVATION COMMISSION AND OPERATORS RELATIVE TO OIL AND GAS LOCATIONS AND URBAN PLANNING

(Recommendation #17)

TOTALS:		Yes: 21		No: 0	
Barwinski	Y	Holly	Y	Quinn	Y
Buescher	Y	Kelly	Y	Rau	Y
Cleveland	Y	Kourlis	Y	Robbins	Y
Dea	Y	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	Y	Toor	Y
George	Y	Pearce	Y	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	Y	Woodall	Y

Agency: Colorado Oil and Gas Conservation Commission (COGCC)

Recommendation: *Recommend COGCC rulemaking to address Local Government collaboration with Operators concerning locations for “Large Scale Oil and Gas Facilities” in “Urban Mitigation Areas,” as defined in COGCC rules. The COGCC should initiate a rules making that would address three related issues:*

First, it would define and adopt a process for enhancing local government participation during the COGCC Application for Permit to Drill (“APD”) process concerning location(s) of Large Scale Oil and Gas Facilities in Urban Mitigation Areas, consistent with the proposal.

Second, the rulemaking would also define what constitutes “Large Scale Oil and Gas Facilities” taking into consideration scale, proximity, and intensity criteria.

Third, address the authority of, and procedures to be used by the Director of the COGCC to regulate the location when permitting Large Scale Oil and Gas Facilities for the purpose of reducing impacts to and conflicts with communities. This shall include siting tools to locate facilities away from residential areas when feasible. Where siting solutions are not possible, the Director would require mitigations to limit the intensity and scale of the operations, as well as other mitigations, to lessen the impacts on neighboring communities.

Process: This process is intended to provide interested local governments a defined and timely opportunity to participate in the siting of such large-scale multi-well oil and gas production facilities,

before an Operator finalizes such locations. This would also provide an opportunity to address location of right-of-way for pipelines, facility consolidation, access routes, and to otherwise mitigate impacts within the Urban Mitigation Area. The purpose of this new rule would be to create an incentive for early resolution of concerns about siting in urban areas, and could be done as part of an Operator's permitting process at the COGCC. Unless an agreement was already in place with an interested affected local government concerning locations within its boundaries, an Operator must obtain local government consultation during the Operator's COGCC APD approval process concerning such facilities in Urban Mitigation Areas. Other local governments may continue to use the current local government designee ("LGD") comment, permit condition and hearing process.

Nothing in this recommendation is intended to or shall be interpreted to alter any existing land use authority local government may have over oil and gas operations.

As set forth, this process would not apply in cases where the Operator and the local government have already negotiated an MOU, site plan review, comprehensive development plan or have otherwise agreed on the location of a multi-well production facility.

When an Operator intends to permit an oil and gas location that meets the criteria for the process, the following steps would be involved:

1. If a local government has in place a comprehensive plan or master plan that specifies locations for oil and gas operations, and if an application would be consistent with the terms of that plan, the COGCC shall include a provision in its rules that provides for expedited consideration of the application.
2. Prior to selecting an oil and gas location, the Operator must offer to meet with the LGD and a designated representative of the COGCC to seek location government consultation concerning locations for such large-scale facilities. Such consultation, based on the local government planning perspectives, would be designed to anticipate community concerns. Should the local government decide to use this process, the first meeting begins a collaboration by which the Operator and the local government, and recognizing the requests and concerns of the surface owner on whom such facilities may be located, can agree on site location and operational practices. These agreements can be documented in:
 - a. Memorandum of Understanding (MOU)
 - b. Best Management Practices (BMP's) on the COGCC permit
 - c. Comprehensive Drilling Plan (CDP)
 - d. Unconventional Resource Units
 - e. Local Government Land Use Permit
 - f. Or any other mechanism in which agreement is established
3. Operator and local government are required to work towards a compromise concerning locations, and the Operator is required to submit the agreement reflected in paragraph 1 upon submittal of an Oil and Gas Location Assessment ("OGLA"; Form 2A) to the COGCC, or otherwise indicate whether the local government has approved the location for the multi-well production facility.

The COGCC staff and local government liaison would be charged, if necessary, with convening meetings of the local government, Operator, and COGCC staff to consider alternative locations

for multi-well production facilities and to encourage locations that consider distances between building units and/or high occupancy units

4. A local government's request concerning location must be based on a set of established set of reasonable standards or criteria addressing land use and surface related issues resulting from the proposed oil and gas operation, balanced with consideration of responsible development, production, and utilization of the natural resources of oil and gas in the state of Colorado in a manner consistent with protection of public health, safety, and welfare, including protection of the environment and wildlife resources, and include consideration of surface and mineral owner wished.
5. If a compromise cannot be reached concerning proposed locations within reasonable time frame (to be determined during rulemaking) after the first meeting, but before the OGLA is submitted, the Operate shall offer to engage in mediation with the local government. If the local government agrees to mediation, they shall jointly select a mediator or mediators and shall share in the cost of mediation. Upon selection of a mediator(s), the process shall conclude within 45 days unless the two parties jointly agree to an extension. The parties may request the assistance of COGCC staff, and if they do so the COGCC Director shall exert his or her best efforts to provide the requested technical assistance. If mediation does not occur, the Operator may submit its OGLA and APD for processing and approval.
6. If the parties reach agreement, they may memorialize that agreement in any of the forms outlined above.
7. If the parties are unable to reach agreement, on their own or with the mediation, and the timing process of mediation has lapsed, the Operator will finalize its OGLA with its settled location and then will be required to present its OGLA to the full COGCC at an expedited hearing. The COGCC will hear evidence from the local government, the Operator and the COGCC staff before the OGLA can be approved. In no case will the hearing on the OGLA be greater than 90 days from the first meeting with the local government.

In order to approve the OGLA, the COGCC must weigh the data and information presented from both parties as the proposed location(s), including the standards discussed in paragraph 4.

Rationale: The Task Force heard concerns from numerous parties about the location of large multi-well production facilities in close proximity to urbanized areas. The scale and intensity of multi-well production facilities that are in close proximity to neighborhoods has led to a need for local governments to represent their constituents to a greater degree than in the past. Local governments have expressed the need for more involvement earlier in the process of permitting oil and gas locations, in particular, to the siting of large-scale multi-oil and gas well production facilities in order to represent land use impacts and community concerns (such as those of nearby homeowners, schools, etc.). The above outlined process allows for local governments to get advance notice from Operators and begin discussions with Operators prior to locations being selected. It provides a mechanism for local governments to influence locations prior to permitting at the COGCC and establishes a mechanism for

collaboration among local governments, oil and gas Operators, and the COGCC. This recommendation is consistent with COGCC Director Matt Lepore's suggestion, and that of other Task Force members, including Matt Sura, that the Task Force considers scale, proximity, and intensity in addressing location of multi-well production facilities.

**RECOMMENDATION TO INCLUDE FUTURE OIL AND GAS DRILLING AND PRODUCTION FACILITIES IN
EXISTING LOCAL COMPREHENSIVE PLANNING PROCESSES**
(Recommendation #20)

TOTALS:		Yes: 21		No: 0	
Barwinski	Y	Holly	Y	Quinn	Y
Buescher	Y	Kelly	Y	Rau	Y
Cleveland	Y	Kourlis	Y	Robbins	Y
Dea	Y	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	Y	Toor	Y
George	Y	Pearce	Y	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	Y	Woodall	Y

Agency or General Assembly: Colorado Oil & Gas Conservation Commission (COGCC)

Description: Proposal to require operator registration with certain Local Government Designees (“LGD”), and upon the request of a municipal LGD, submission of operational information for the purpose of incorporating potential oil and gas development into local comprehensive plans. Key elements of this recommendation include:

1. Beginning on January 1, 2016, all operators registered with the COGCC shall also register with the LGD of each municipality in which it has current or planned oil and gas operations. Upon the request of a municipal LGD, the operator shall provide the following information, with a copy to the COGCC Local Government Liaison (“LGL”):
 - a. Based on the current business plan of the operator, a good faith estimate of the number of wells (not including non-operated wells) that such operator intends to drill in the next five years in the municipal jurisdiction, corresponding to the operator’s internal analysis of reserves classified as “proved undeveloped” for SEC reporting purposes.
 - b. A map showing the location of the operator’s existing well sites and related production facilities; sites for which operator has, or has made application for, COGCC permits; and, sites identified for development on the operator’s current drilling schedule for which it has not yet made application for COGCC permits.

The plan provided to the LGD is acknowledged to be subject to change at the operator’s sole discretion, and shall be updated by the operator if materially altered.

2. The Planning Department of participating municipalities will prepare a comprehensive map of the potential future drilling and production sites within its jurisdiction, overlaid on the existing Comprehensive Plan Map.
3. Beginning on July 1, 2016, and upon material alteration, the municipality will provide the Comprehensive Plan Map, overlaid with future drilling and production sites to each of the registered operators and to the LGL. On such map, the municipality will identify sites that it considers compatible with the current and planned future uses of the area; sites where it anticipates minor

issues to be resolved by negotiation with the operator; and, sites where it anticipates significant conflicts with current and planned future uses as indicated in the Comprehensive Plan.

4. Disputes between local governments and operators will be resolved through mediation as more thoroughly described in Recommendation 13b.

Rationale: Local governments throughout the state have complicated and lengthy processes to develop Comprehensive Plans. The plan ultimately reflects the community's goals and aspirations in terms of land development and preservation. The plan guides public policy in terms of transportation, utilities, land use, open space, recreation and housing.

Oil and gas development is within the purview of the State of Colorado, and long-term planning to the extent it is performed, is often disjointed and not coordinated with local governments, most acutely in municipalities. Accordingly, when oil and gas development comes to a municipality, it can result in conflict with the existing, documented, community goals and aspirations. This proposal is to recommend the framework which will facilitate incorporation of drilling plans into municipal comprehensive planning.