

SUBJECT

Items Relating to a Citizen-Initiated Ordinance to Place a Five-Year Moratorium on the Use of Hydraulic Fracturing Within the City of Fort Collins or Under Its Jurisdiction to Extract Oil, Gas, or Other Hydrocarbons and to Store and Dispose of Its Waste Products.

- A. Presentation of a Petition for a Citizen-Initiated Ordinance to Place a Five-Year Moratorium on the Use of Hydraulic Fracturing Within the City of Fort Collins or Under Its Jurisdiction to Extract Oil, Gas, or Other Hydrocarbons and to Store and Dispose of Its Waste Products. (No Action Needed)
- B. First Reading of Ordinance No. 119, 2013 Placing Five-Year Moratorium on the Use of Hydraulic Fracturing to Extract Oil, Gas and Other Hydrocarbons and on the Storage of the Waste Products of Hydraulic Fracturing Within the City of Fort Collins or on Lands Under the City's Jurisdiction. (Option 1)

OR

Resolution 2013-072 Submitting to the Registered Electors of the City, at a Special Municipal Election on November 5, 2013, a Proposed Citizen-Initiated Ordinance Placing a Five-Year Moratorium on the Use of Hydraulic Fracturing to Extract Oil, Gas and Other Hydrocarbons and on the Storage of the Waste Products of Hydraulic Fracturing Within the City of Fort Collins or on Lands Under the City's Jurisdiction. (Option 2)

EXECUTIVE SUMMARY

The City Clerk's Office received an initiative petition on August 5, 2013, which has been determined to contain a sufficient number of signatures to place an initiated measure before the registered electors of the City at a special election. Pursuant to the City Charter, upon presentation of an initiative petition certified as sufficient by the City Clerk, the Council must either (1) adopt the proposed ordinance without alteration within 30 days; or (2) submit such proposed measure, in the form petitioned for, to the registered electors of the city.

STAFF RECOMMENDATION

Staff recommends Council choose either Option 1 (adoption of the Ordinance without alternation) or Option 2 (submitting the proposed measure to the voters).

BACKGROUND / DISCUSSION

The City Clerk's Office has certified a sufficient number of signatures on an initiative petition received on August 5, 2013. Under Article X of the City Charter, 3,907 signatures of registered electors (at least 15% of the total ballots cast in the last regular City election) are required to place an initiative on a special election ballot. Upon presentation of an initiative petition certified as to sufficiency by the City Clerk, the Council must either adopt the proposed ordinance without alteration or submit the proposed measure in the form petitioned for, to the registered electors of the city. In anticipation of receiving this petition, a special election has been called for November 5, 2013, in conjunction with the Larimer County Coordinated Election.

The purpose of the initiated measure is to place a five-year moratorium on the use of hydraulic fracturing within the City of Fort Collins or under its jurisdiction to extract oil, gas, or other hydrocarbons and to store and dispose of its waste products. The text of the proposed ordinance is as follows:

Fort Collins Public Health, Safety and Wellness Act.

Section 1. Purpose.

To protect property, property values, public health, safety and welfare by placing a five year moratorium on the use of hydraulic fracturing to extract oil, gas, or other hydrocarbons within the City of Fort Collins in order to study the impacts of the process on the citizens of the City of Fort Collins.

Section 2. Findings.

The people of Fort Collins hereby make the following findings with respect to the process of hydraulic fracturing within the City of Fort Collins:

The Colorado Constitution confers on all individuals in the state, including the citizens of Fort Collins, certain inalienable rights, including "the right of enjoying and defending their lives and liberties; of acquiring, possessing and protecting property; and of seeking and obtaining their safety and happiness," Colo. Const. Art. II, Sec. 3;

The Colorado Oil and Gas Act requires oil and gas resources to be extracted in a "manner consistent with protection of public health, safety, and welfare, including protection of the environment and wildlife resources," Colo. Rev. Stat. §34-60-102;

The well stimulation process known as hydraulic fracturing is used to extract deposits oil, gas, and other hydrocarbons through the underground injection of large quantities of water, gels, acids or gases; sands or other proppants; and chemical additives, many of which are known to be toxic;

The people of Fort Collins seek to protect themselves from the harms associated with hydraulic fracturing, including threats to public health and safety, property damage and diminished property values, poor air quality, destruction of landscape, and pollution of drinking and surface water;

Representatives from the State of Colorado have publically stated that they will be conducting a health impact assessment to assess the risks posed by hydraulic fracturing and unconventional oil and gas development.

The people of Fort Collins have determined that the best way to safeguard our inalienable rights provided under the Colorado Constitution, and to and ensure the "protection of public health, safety, and welfare, including protection of the environment and wildlife resources" as provided under the Colorado Oil and Gas Act, is to place a five year moratorium on hydraulic fracturing and the storage and disposal of its waste products within the City of Fort Collins in order to fully study the impacts of this process on property values and human health.

Section 3. Moratorium

Therefore, the people of Fort Collins have determined that the best way to safeguard our inalienable rights provided under the Colorado Constitution, and to ensure the "protection of public health, safety, and welfare, including protection of the environment and wildlife resources" as provided under the Colorado Oil and Gas Act, is to place a moratorium on hydraulic fracturing and the storage of its waste products within the City of Fort Collins or under its jurisdiction for a period of 5 years without exemption or exception in order to fully study the impacts of this process on property values and human health. The moratorium can be lifted upon a ballot measure approved by the people of the City of Fort Collins.

Section 4. Retroactive Application

In the event this measure is adopted by the voters, its provisions shall apply retroactively as of the date the measure was found to have qualified for placement on the ballot.

ATTACHMENTS

1. Petition certification



STATEMENT OF PETITION SUFFICIENCY

I, Wanda K. Nelson, City Clerk, do hereby certify that:

1. On August 5, 2013, petition representative Elizabeth Hudetz submitted a petition to initiate an ordinance relating to a moratorium on the use of hydraulic fracturing; and
2. Said petition requested that the initiated ordinance be placed before the voters at a special election; and
3. An initiative petition seeking consideration at a special election must be signed by registered electors of the city equal in number to at least fifteen (15) percent of the total ballots cast in the last regular city election; and
4. The number of signatures of registered voters who live within the Fort Collins city limits required for said petition to be sufficient is 3,907; and
5. Upon examination of the petition, I have determined that the petition contains more than 3,907 valid signatures, and the petition is therefore sufficient for placement on a special election ballot; and
6. This determination of sufficiency is subject to protest within ten (10) days of the filing of the petition, which deadline is 5:00 p.m. on Thursday, August 15, 2013; and if protested, will be superceded by a new determination of sufficiency or insufficiency following hearing on the protest(s) and certification of the results of the hearing.

Signed this 12th day of August, 2013.

Wanda K. Nelson

Wanda K. Nelson, City Clerk

OPTION 1

ORDINANCE NO. 119, 2013
OF THE COUNCIL OF THE CITY OF FORT COLLINS
PLACING A FIVE-YEAR MORATORIUM ON THE USE OF HYDRAULIC
FRACTURING TO EXTRACT OIL, GAS AND OTHER
HYDROCARBONS AND ON THE STORAGE OF THE WASTE PRODUCTS OF
HYDRAULIC FRACTURING WITHIN THE CITY OF FORT COLLINS OR ON
LANDS UNDER THE CITY'S JURISDICTION

Fort Collins Public Health, Safety and Wellness Act.

Section 1. Purpose.

To protect property, property values, public health, safety and welfare by placing a five year moratorium on the use of hydraulic fracturing to extract oil, gas, or other hydrocarbons within the City of Fort Collins in order to study the impacts of the process on the citizens of the City of Fort Collins.

Section 2. Findings.

The people of Fort Collins hereby make the following findings with respect to the process of hydraulic fracturing within the City of Fort Collins:

The Colorado Constitution confers on all individuals in the state, including the citizens of Fort Collins, certain inalienable rights, including “the right of enjoying and defending their lives and liberties; of acquiring, possessing and protecting property; and of seeking and obtaining their safety and happiness,” Colo. Const. Art. II, Sec. 3;

The Colorado Oil and Gas Act requires oil and gas resources to be extracted in a “manner consistent with protection of public health, safety, and welfare, including protection of the environment and wildlife resources,” Colo. Rev. Stat. §34-60-102;

The well stimulation process known as hydraulic fracturing is used to extract deposits oil, gas, and other hydrocarbons through the underground injection of large quantities of water, gels, acids or gases; sands or other proppants; and chemical additives, many of which are known to be toxic;

The people of Fort Collins seek to protect themselves from the harms associated with hydraulic fracturing, including threats to public health and safety, property damage and diminished property values, poor air quality, destruction of landscape, and pollution of drinking and surface water;

Representatives from the State of Colorado have publically stated that they will be conducting a health impact assessment to assess the risks posed by hydraulic fracturing and unconventional oil and gas development.

The people of Fort Collins have determined that the best way to safeguard our inalienable rights provided under the Colorado Constitution, and to and ensure the “protection of public health, safety, and welfare, including protection of the environment and wildlife resources” as

provided under the Colorado Oil and Gas Act, is to place a five year moratorium on hydraulic fracturing and the storage and disposal of its waste products within the City of Fort Collins in order to fully study the impacts of this process on property values and human health.

Section 3. Moratorium

Therefore, the people of Fort Collins have determined that the best way to safeguard our inalienable rights provided under the Colorado Constitution, and to ensure the “protection of public health, safety, and welfare, including protection of the environment and wildlife resources” as provided under the Colorado Oil and Gas Act, is to place a moratorium on hydraulic fracturing and the storage of its waste products within the City of Fort Collins or under its jurisdiction for a period of 5 years without exemption or exception in order to fully study the impacts of this process on property values and human health. The moratorium can be lifted upon a ballot measure approved by the people of the City of Fort Collins.

Section 4. Retroactive Application

In the event this measure is adopted by the voters, its provisions shall apply retroactively as of the date the measure was found to have qualified for placement on the ballot.

Introduced, considered favorably on first reading, and ordered published this 20th day of August, A.D. 2013, and to be presented for final passage on the 3rd day of September, A.D. 2013.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 3rd day of September, A.D. 2013.

Mayor

ATTEST:

City Clerk

OPTION 2

RESOLUTION 2013-072

OF THE COUNCIL OF THE CITY OF FORT COLLINS

SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY, AT A SPECIAL MUNICIPAL ELECTION ON NOVEMBER 5, 2013, A PROPOSED CITIZEN-INITIATED ORDINANCE PLACING A FIVE-YEAR MORATORIUM ON THE USE OF HYDRAULIC FRACTURING TO EXTRACT OIL, GAS AND OTHER HYDROCARBONS AND ON THE STORAGE OF THE WASTE PRODUCTS OF HYDRAULIC FRACTURING WITHIN THE CITY OF FORT COLLINS OR ON LANDS UNDER THE CITY'S JURISDICTION

WHEREAS, under Article X, Section 1 of the City Charter, the registered electors of the City have the power to propose a measure to the City Council, and if the City Council fails to adopt a measure so proposed, then to adopt or reject such ordinance or resolution at the polls; and

WHEREAS, an initiative petition to place a five-year moratorium on the use of hydraulic fracturing and the storage of its waste products within the City of Fort Collins or under its jurisdiction has been submitted to the City, and the City Clerk has certified said petition as sufficient for submission of the initiated ordinance to a vote of the people at a special municipal election; and

WHEREAS, the City Clerk has presented said petition to the City Council as provided in Article X, Section 5(f)(4) of the City Charter; and

WHEREAS, under Article X, Section 1(e) of the City Charter, upon presentation of an initiative petition certified as to sufficiency by the City Clerk, the City Council must either adopt the citizen-initiated ordinance without alteration within thirty (30) days or submit said citizen-initiated ordinance in the form petitioned for, to the registered electors of the City; and

WHEREAS, under Article X, Section 6 of the City Charter, upon ordering an election on any initiative or referendum measure, the Council shall, after public hearing, adopt by resolution a ballot title and submission clause for the measure; and

WHEREAS, the ballot title for the measure must identify the measure as either a city initiated or citizen initiated measure; and

WHEREAS the submission clause must be brief, must not conflict with those selected for any petition previously filed for the same election, and must unambiguously state the principle of the provision sought to be added.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That there is hereby submitted to the registered electors of the City at a special municipal election to be held in conjunction with the Larimer County Coordinated Election on Tuesday, November 5, 2013, the following proposed citizen-initiated ordinance:

PROPOSED CITIZEN-INITIATED ORDINANCE

Fort Collins Public Health, Safety and Wellness Act.

Section 1. Purpose.

To protect property, property values, public health, safety and welfare by placing a five year moratorium on the use of hydraulic fracturing to extract oil, gas, or other hydrocarbons within the City of Fort Collins in order to study the impacts of the process on the citizens of the City of Fort Collins.

Section 2. Findings.

The people of Fort Collins hereby make the following findings with respect to the process of hydraulic fracturing within the City of Fort Collins:

The Colorado Constitution confers on all individuals in the state, including the citizens of Fort Collins, certain inalienable rights, including “the right of enjoying and defending their lives and liberties; of acquiring, possessing and protecting property; and of seeking and obtaining their safety and happiness,” Colo. Const. Art. II, Sec. 3;

The Colorado Oil and Gas Act requires oil and gas resources to be extracted in a “manner consistent with protection of public health, safety, and welfare, including protection of the environment and wildlife resources,” Colo. Rev. Stat. §34-60-102;

The well stimulation process known as hydraulic fracturing is used to extract deposits oil, gas, and other hydrocarbons through the underground injection of large quantities of water, gels, acids or gases; sands or other proppants; and chemical additives, many of which are known to be toxic;

The people of Fort Collins seek to protect themselves from the harms associated with hydraulic fracturing, including threats to public health and safety, property damage and diminished property values, poor air quality, destruction of landscape, and pollution of drinking and surface water;

Representatives from the State of Colorado have publically stated that they will be conducting a health impact assessment to assess the risks posed by hydraulic fracturing and unconventional oil and gas development.

The people of Fort Collins have determined that the best way to safeguard our inalienable rights provided under the Colorado Constitution, and to and ensure the “protection of public health, safety, and welfare, including protection of the environment and wildlife resources” as provided under the Colorado Oil and Gas Act, is to place a five year moratorium on hydraulic fracturing and the storage and disposal of its waste products within the City of Fort Collins in order to fully study the impacts of this process on property values and human health.

Section 3. Moratorium

Therefore, the people of Fort Collins have determined that the best way to safeguard our inalienable rights provided under the Colorado Constitution, and to ensure the “protection of public health, safety, and welfare, including protection of the environment and wildlife resources” as provided under the Colorado Oil and Gas Act, is to place a moratorium on hydraulic fracturing and the storage of its waste products within the City of Fort Collins or under its jurisdiction for a period of 5 years without exemption or exception in order to fully study the impacts of this process on property values and human health. The moratorium can be lifted upon a ballot measure approved by the people of the City of Fort Collins.

Section 4. Retroactive Application

In the event this measure is adopted by the voters, its provisions shall apply retroactively as of the date the measure was found to have qualified for placement on the ballot.

Section 2. That the foregoing proposed citizen-initiated ordinance is hereby submitted to the registered electors of the City at said regular municipal election in substantially the following form:

PROPOSED CITIZEN-INITIATED ORDINANCE

An ordinance placing a moratorium on hydraulic fracturing and the storage of its waste products within the City of Fort Collins or on lands under its jurisdiction for a period of five years, without exemption or exception, in order to fully study the impacts of this process on property values and human health, which moratorium can be lifted upon a ballot measure approved by the people of the City of Fort Collins and which shall apply retroactively as of the date this measure was found to have qualified for placement on the ballot.

FOR THE ORDINANCE _____

AGAINST THE ORDINANCE _____

Passed and adopted at a regular meeting of the Council of the City of Fort Collins this 20th day of August, A.D. 2013.

Mayor

ATTEST:

City Clerk