

## **Government Affairs Update**

**March 2018**

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### **LOCAL**

#### **Larimer County**

**Commissioner Race Attracts More Candidates:** There are now five candidates running for the District 1 seat on the Larimer County Board of Commissioners. The Republican candidates are Chalon Kintzley, co-owner of a multimillion-dollar construction company, Mike Sieg, who has worked in both the public and private sectors, and REALTOR® Sean Dougherty who declared his intent earlier this month. The Democratic candidates are Dan Sapienza, who is an analyst and policy advocate for the Health District of Northern Larimer County and State Senator John Kefalas. More information about each of the candidates is available here:

[SeanForLarimerCounty.com](http://SeanForLarimerCounty.com)

[www.kintzley2018.com](http://www.kintzley2018.com)

[www.mikesieg2018.com](http://www.mikesieg2018.com)

<http://www.dansapienza.com>

<https://kefalasforlarimer.org>

#### **Berthoud**

**Election is April 3:** Berthoud voters will elect a new mayor and three new trustees on April 3. The mayoral candidates are Will Karspeck and Jeff Hindman, both of whom currently serve on the Board of Trustees. Current Mayor Steve Mulvihill is not running for another term. In addition, there are seven candidates for three open seats on the Board to replace current trustees Jennifer Baker, Chris Buckridge and Kelly Dunkelberger. The Loveland-Berthoud Association of REALTORS® Government Affairs Committee will interview candidates in early March.

#### **Loveland**

**Broadband Moves Forward on Split Vote:** The Loveland City Council gave approval on three ordinances that allow the City to borrow \$2.5 million from Loveland's power fund to develop a detailed high-speed broadband business implementation plan, complete a build-ready network design, evaluate financing options and educate citizens about the project.

The City Council has discussed creating a city-owned broadband utility over 15 times in the past few years since voters gave Loveland approval to research options. The more conservative members of the Council – Mayor Pro Tem Don Overcash and Councilors Dave Clark, Jeremy Jersvig and Steve Olson -- do not think broadband should be a government service and are concerned about the cost of such a project, conservatively estimated at over \$100 million. If the project loses money, they worry the City's utility customers will have to pay for it.

The majority on Council sees broadband as a utility that would foster economic development. They say citizens are demanding a better and faster broadband service that could be provided by the City.

The most interesting aspect of the most recent discussion concerned whether voters should be allowed to make the final decision on the project. Mayor Jacki Marsh says she “knows” a majority of voters would be in favor of the project but changed her mind on sending the issue to the voters between the first and second readings of the ordinances. Councilor John Fogle argued the voters would be swayed by slick and expensive industry campaigns. He said the only way he would support a citizen vote would be if Comcast and CenturyLink were not allowed to campaign on the issue.

Councilor Jeremy Jersvig spoke for the conservative minority, saying it was a disservice to the community to bypass the public. Olson, Overcash and Clark agreed with him, saying the public should have the final say. An amendment to require a public vote offered by Overcash lost on a 5-4 vote but that doesn’t mean the Council could not decide to let the voters make the decision later in the process.

This discussion was interesting on a number of fronts. Is broadband a utility similar to electricity or water – or is it a luxury? How can anyone really know if the development of a city-owned broadband network would be financially viable? Should Loveland residents have the final decision on incurring the financial responsibility of building a broadband network, or should the City Council be responsible as the citizens’ elected representatives?

**Council Gets Unified Development Code Update:** At a recent study session staff told the City Council that developers are excited about the new processes laid out in the new Unified Development Code (UDC) and they are confident Loveland will see more development as a result. Todd Messenger, the consultant who drafted the UDC said his goal was to create a code that is clear and certain, which will be helpful to both developers and the staff charged with interpreting it.

The idea is to have a customer service-oriented code and mentality. The UDC will be more flexible, less proscriptive and easy to read and understand. Staff explained that the reason the UDC implementation date has been pushed back is to be sure everything in it is absolutely correct and clear. At this point it is anticipated the Planning Commission will go through the final draft of the UDC for a technical review in April or May (2018). After that it goes through a full public hearing process with the City Council.

**Council, CAB Tangle Over Building Code Changes:** The City Council and the Construction Advisory Board (CAB) argued about building code changes that would make Loveland’s code consistent with that of surrounding communities. Currently Loveland exempts “like for like” permits for pergolas, re-roofing that does not involve (plywood) sheathing, furnaces, water heaters and air conditioners. The CAB would like to remove that exemption, saying that homeowners should be required to get permits for these projects as a matter of safety.

The City Council was divided. Leah Johnson, John Fogle and Kathi Wright agreed with the CAB’s recommendation. But other Council members were not convinced. Mayor Jacki Marsh and some of the more conservative Councilors said homeowners should be able to do their own work. They argued the City shouldn’t create unnecessary costs for homeowners.

This is the second time this issue has been discussed in the past 12 months but Chief Building Official John Schumacher and the CAB were not successful in convincing the

Council that their proposal had merit. The Council instructed staff to bring all the proposed code changes back in such a way that it can approve or deny all the building code recommendations individually rather than have to vote on them together in one ordinance.

### **COLORADO ASSOCIATION OF REALTORS®**

Legislative Update: Here's a look at some of the positions CAR's Legislative Policy Committee took on real estate-related bills:

HB-1054 "Affordable Housing Plastic Shopping Bag Tax" Position: Neutral Position: Oppose Status: Postponed indefinitely ("killed"). The LPC was not excited about this bill, which would use a tax on plastic shopping bags to fund affordable housing. CAR's Vice-President of Public Policy, Elizabeth Peetz, told the LPC retailers will oppose the bill. The LPC determined that staying neutral allows CAR to say the association is not opposed to affordable housing in general.

SB-01 "Transportation Infrastructure Funding" Position: Monitor  
There will be multiple transportation funding bills introduced this year and the LPC isn't sure which one is viable, hence the monitor position.

SB-06 "Recording Fee To Fund Attainable Housing" Position: Oppose Status: Postponed indefinitely ("killed"). CAR has historically opposed any real estate related recording fees that would increase the cost of buying homes.

### **STATE**

**Governor Opposes Transportation Bill:** Republicans introduced their top priority, Senate Bill 01 "Transportation Infrastructure Funding," on the opening day of the legislative session and immediately met resistance from Governor John Hickenlooper. His staff testified against Senate Bill 01, which would create a transportation bond of up to \$3.5 billion. The administration's lobbyists testified in a Senate Transportation Committee hearing that the tax revenue needed to secure the bond would squeeze other government services.

David May, CEO of the Fort Collins Chamber of Commerce and Chair of the Fix North I-25 Business Alliance, testified in favor of the bill. "Transportation has been waiting for a long time." May said Colorado can't continue to wait on a political solution to funding. "Every year we don't put a solution on the table we are hurting the citizens of this state," he said.

The committee voted along party lines (3-2) to pass the bill. While SB-01 is expected to make it out of the Senate, the bill is unlikely to survive the House without major revisions.

### **NATION**

**Supreme Court Issues WOTUS Opinion:** On January 22, the Supreme Court issued a unanimous opinion, authored by Justice Sotomayor, finding that challenges to the Waters of the U.S. (WOTUS) rule belong in district court. The Court found that the WOTUS rule wasn't covered under the Clean Water Act, which lists categories of EPA actions that circuit courts have exclusive power to review. The Supreme Court instructs the Sixth Circuit to dismiss the petitions for review of the WOTUS Rule for lack of jurisdiction.

As a result, the Sixth Circuit's nationwide stay of the WOTUS Rule may no longer remain in place. NAR is trying to obtain more clarity on this important question from the EPA but for now, the focus will shift to the district courts to obtain a nationwide stay of the rule. In the meantime, the agencies are still working on a rule to delay the applicability date of the 2015 WOTUS Rule which NAR, through the Waters Advocacy Coalition, provided comments for the official record. The EPA will also continue to develop a rule to repeal and replace the WOTUS regulation.

**Flood Insurance Extended to March 23:** On February 9, 2018, Congress extended the National Flood Insurance Program (NFIP) as part of a broader budget agreement, which set the total amount that lawmakers can spend on an omnibus government-funding package. NAR is urging the Senate to use the next six weeks to work on a longer-term reauthorization and reform measure similar to the version passed by the House last year.

NAR sent a letter in support of the budget agreement, which also extended several key tax provisions in addition to keeping the NFIP operating through March 23.