



Town of Johnstown

TOWN COUNCIL AGENDA COMMUNICATIONS

AGENDA DATE: May 15, 2023

SUBJECT: Public Hearing – Ordinance 2023 - 251: An Ordinance Submitting to the Registered Electors of the Town of Johnstown at the General Municipal Election to be Held On April 2, 2024, A Charter Amendment Adopting A Water Policy for the Town of Johnstown

ACTION PROPOSED: Consider Ordinance 2023-251

ATTACHMENTS: 1. Ordinance 2023-251

PRESENTED BY: Matt LeCerf, Town Manager

AGENDA ITEM DESCRIPTION:

Included for your review and consideration is Ordinance 2023-251. The ordinance presented would authorize and remit a question to the registered voters of the Town of Johnstown for the April 2, 2024 general election cycle. The public hearing was initially opened on May 1, 2023. While there was a discussion among Town Council and Staff, the item was tabled pending additional revisions to the proposed Water Policy. The aspects of the water policy have been updated as shown below – specifically Item G. If approved by ordinance and then approved by the voters, the following language would be codified in the Home Rule Charter:

16.4 – Water Policy

A. Any person, legal entity or political body who seeks an extension of water service, annexation of land to the Town or a change in land use, if such change in use will increase the demand for water service, shall dedicate a sufficient amount of acceptable raw water necessary for the increase of water usage to the Town; except that, for good cause shown, as determined by the Town Council, the Town may accept cash-in-lieu of the required raw water dedication in an amount at least equal to the fair market value of the water at the time of the sale.

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B. The Town shall protect the Town's water rights by, when warranted and economically feasible, filing water court actions to change the decreed use of such water to allow for municipal uses and participating in third party cases to protect the Town's water portfolio.

C. The Town may provide more raw water credit for the dedication of water rights that, at the time of dedication, allow for municipal uses than water rights that do not allow for municipal uses; except that the Town shall not provide more credit for water rights dedicated to the Town than the water court has previously provided for such, or a similar, water right.

D. The Town shall not transfer or exchange the Town's water rights unless the Town receives, at a minimum, an equivalent yield on the water transfer or exchange.

E. The Town may sell water rights for use within the Town boundaries in an amount at least equal to the fair market value at the time of the sale to fund capital improvement projects related to the treatment or distribution of water.

F. The Town shall endeavor to retain sufficient treatment water resources above the Town's annual water demands to ensure that the Town will have adequate water supplies in times of extended drought.

G. The Town shall endeavor to maintain a water portfolio greater than or equal to 1.2 times the acre-foot volume that is committed to be supplied by the Town to serve existing customers and satisfy water bank and contractual obligations. By the affirmative vote of at least five members of the Entire Council, the Town may maintain a water portfolio below 1.2 times the committed acre-foot volume; except that the Town shall, at all times, maintain a water portfolio that is at least equal to 1.1 times the committed acre-foot volume. Water dedicated at the time of annexation without a contractual obligation for the delivery of such water shall not be counted against the total. The Town Council shall by ordinance define the amount of yield of the Town's water portfolio by which to base the calculations above, based on climatological factors and any other items deemed relevant to the long-term water supply.

H. The Town may create a strategic water reserve to help facilitate major economic development or similar such purposes in the Town. This reserve would be separate from the portfolio referenced in Paragraph G.

LEGAL ADVICE:

The Town Attorney drafted the Ordinance.

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FINANCIAL ADVICE:

NA

RECOMMENDED ACTION: Approve Ordinance 2023-251 upon first reading.

SUGGESTED MOTIONS:

For Approval: I move to approve Ordinance No. 2023-251 upon first reading.

For Denial: I move to deny Ordinance No. 2023-251 upon first reading.

Reviewed and Approved for Presentation,



Town Manager

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TOWN OF JOHNSTOWN, COLORADO

ORDINANCE NO. 2023-251

AN ORDINANCE SUBMITTING TO THE REGISTERED ELECTORS OF THE TOWN OF JOHNSTOWN AT THE GENERAL MUNICIPAL ELECTION TO BE HELD ON APRIL 2, 2024, A CHARTER AMENDMENT ADOPTING A WATER POLICY FOR THE TOWN OF JOHNSTOWN

WHEREAS, the Town of Johnstown, Colorado (“Town”) is a municipal corporation duly organized and existing under its Home Rule Charter adopted pursuant to Article XX of the Constitution of the State of Colorado; and

WHEREAS, the Town Council is vested with authority to administer the affairs of the Town; and

WHEREAS, the Town Council recognizes that the protection, preservation and assurance of reliable and dependable water resources is of paramount importance and essential to the health, safety and welfare of the Town and its current and future citizens and residents; and

WHEREAS, to protect, preserve and ensure reliable and dependable water resources, the Town Council desires to submit a proposed Charter amendment to the registered electors of the Town concerning adoption of a water policy; and

WHEREAS, Section 1.8 of Article 1 of the Charter provides that proceedings to amend the Charter may be initiated by, among other means, the adoption of an ordinance by the Town Council submitting the proposed amendment to a vote of the registered electors of the Town; and

WHEREAS, the Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town, that it is promulgated for the preservation of the public health, welfare, peace, safety and property and that this Ordinance is in the best interests of the citizens of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF JOHNSTOWN, COLORADO, AS FOLLOWS:

Section 1. The Town Council hereby submits and refers to the registered electors of the Town a proposed amendment to Article 16 of the Charter to add Section 16.4 concerning a water policy, to read in its entirety as follows:

16.4 – Water Policy

A. Any person, legal entity or political body who seeks an extension of water service, annexation of land to the Town or a change in land use, if such change in use will increase the demand for water service, shall dedicate a sufficient amount of acceptable raw water necessary for the increase of water usage to the Town; except that, for good cause shown, as determined by the Town Council, the Town may accept cash-in-lieu

of the required raw water dedication in an amount at least equal to the fair market value of the water at the time of the sale.

B. The Town shall protect the Town's water rights by, when warranted and economically feasible, filing water court actions to change the decreed use of such water to allow for municipal uses and participating in third party cases to protect the Town's water portfolio.

C. The Town may provide more raw water credit for the dedication of water rights that, at the time of dedication, allow for municipal uses than water rights that do not allow for municipal uses; except that the Town shall not provide more credit for water rights dedicated to the Town than the water court has previously provided for such, or a similar, water right.

D. The Town shall not transfer or exchange the Town's water rights unless the Town receives, at a minimum, an equivalent yield on the water transfer or exchange.

E. The Town may sell water rights for use within the Town boundaries in an amount at least equal to the fair market value at the time of the sale to fund capital improvement projects related to the treatment or distribution of water.

F. The Town shall endeavor to retain sufficient treatment water resources above the Town's annual water demands to ensure that the Town will have adequate water supplies in times of extended drought.

G. The Town shall endeavor to maintain a water portfolio greater than or equal to 1.2 times the acre-foot volume that is committed to be supplied by the Town to serve existing customers and satisfy water bank and contractual obligations. By the affirmative vote of at least five members of the Entire Council, the Town may maintain a water portfolio below 1.2 times the committed acre-foot volume; except that the Town shall, at all times, maintain a water portfolio that is at least equal to 1.1 times the committed acre-foot volume. Water dedicated at the time of annexation without a contractual obligation for the delivery of such water shall not be counted against the total. The Town Council shall by ordinance define the amount of yield of the Town's water portfolio by which to base the calculations above, based on climatological factors and any other items deemed relevant to the long-term water supply.

H. The Town may create a strategic water reserve to help facilitate major economic development or similar such purposes in the Town. This reserve would be separate from the portfolio referenced in Paragraph G.

Section 3. The question of amending the Charter for the purposes stated herein shall be submitted to the registered electors of the Town in substantially the following form:

SHALL THE JOHNSTOWN HOME RULE CHARTER BE AMENDED TO INCLUDE SECTION 16.4 ADOPTING A WATER POLICY: (i) REQUIRING THE DEDICATION OF WATER OR CASH-IN-LIEU OF WATER DEDICATION AT THE FAIR MARKET VALUE TO SATISFY WATER DEMANDS; (ii) RECOGNIZING THAT THE TOWN MAY COMMENCE OR PARTICIPATE IN WATER COURT ACTIONS WHEN BENEFICIAL TO THE TOWN; (iii) ACKNOWLEDGING THAT THE TOWN MAY PROVIDE GREATER WATER CREDITS FOR WATER DEDICATED TO THE TOWN THAT IS ADJUDICATED FOR MUNICIPAL USES; (iv) ACKNOWLEDGING THAT THE TOWN MAY ONLY EXCHANGE WATER RIGHTS IF THE TOWN RECEIVES

AN EQUIVALENT YIELD; (v) RECOGNIZING THAT THE TOWN MAY SELL WATER TO FUND CAPITAL IMPROVEMENT PROJECTS RELATED TO THE TREATMENT OR DISTRIBUTION OF WATER; (vi) REQUIRING THE TOWN TO ENDEAVOR TO RETAIN SUFFICIENT TREATMENT WATER RESOURCES TO ENSURE THAT THE TOWN WILL HAVE ADEQUATE WATER SUPPLIES DURING PERIODS OF EXTENDED DROUGHTS; (vii) REQUIRING THE TOWN TO MAINTAIN A WATER PORTFOLIO GREATER THAN THE ACRE-FOOT VOLUME COMMITTED TO BE SUPPLIED BY THE TOWN TO SERVE EXISTING CUSTOMERS AND SATISFY WATER BANK AND CONTRACTUAL OBLIGATIONS; AND (viii) ALLOWING THE TOWN TO CREATE A STRATEGIC WATER RESERVE TO HELP FACILITATE MAJOR ECONOMIC DEVELOPMENT OR SIMILAR SUCH PURPOSES.

___ YES

___ NO

Section 4. The election shall be a general municipal election conducted by mail ballot on April 2, 2024. Pursuant to Section 6.4 of Article 6 of the Charter, the Town Clerk is hereby authorized to be in charge of all activities and duties related to the election. In addition, the officers and employees of the Town are hereby authorized and directed to take all necessary and appropriate action to effectuate the provisions of this Ordinance.

Section 5. If any part or provision of this Ordinance, or its application to any person or circumstance, is adjudged to be invalid or unenforceable, the invalidity or unenforceability of such part, provision, or application shall not affect any of the remaining parts, provisions or applications of this Ordinance that can be given effect without the invalid provision, part or application, and to this end the provisions and parts of this Ordinance are declared to be severable.

Section 6. This Ordinance, after its passage on final reading, shall be numbered, recorded, published and posted as required by the Charter and the adoption, posting and publication shall be authenticated by the signature of the Mayor and the Town Clerk and by the Certificate of Publication. This Ordinance shall become effective upon final passage as provided by the Charter. Copies of the entire Ordinance are available at the office of the Town Clerk.

INTRODUCED, AND APPROVED on first reading by the Town Council of the Town of Johnstown, Colorado, this 15 day of may, 2023.

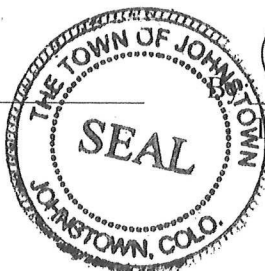
TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By:

Hannah Hill

Hannah Hill, Town Clerk



Troy D. Mellon
Troy D. Mellon, Mayor

PASSED UPON FINAL APPROVAL AND ADOPTED on second reading by the Town Council of the Town of Johnstown, Colorado, this 5 day of June, 2023.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: Hannah Hill
Hannah Hill, Town Clerk



By: Damien Berg
Damien Berg, Mayor Pro Tem