

# RECORD OF PROCEEDINGS

## MINUTES

### BOARD OF COUNTY COMMISSIONERS WELD COUNTY, COLORADO WEDNESDAY, JUNE 16, 2021

The Board of County Commissioners of Weld County, Colorado, met in regular session in full conformity with the laws of the State of Colorado at the regular place of meeting in the Weld County Administration Building, Greeley, Colorado, June 16, 2021, at the hour of 9:00 a.m.

**ROLL CALL:** The meeting was called to order by the Chair and on roll call the following members were present, constituting a quorum of the members thereof:

Commissioner Steve Moreno, Chair  
Commissioner Scott K. James, Pro-Tem  
Commissioner Perry L. Buck  
Commissioner Mike Freeman  
Commissioner Lori Saine

Also present:

County Attorney, Bruce Barker  
Clerk to the Board, Esther Gesick  
Controller, Barbara Connolly

**MINUTES:** Commissioner Buck moved to approve the Minutes of the Board of County Commissioners meeting of June 14, 2021, as printed. Commissioner Saine seconded the motion, and it carried unanimously.

**CERTIFICATION OF HEARINGS:** Commissioner Saine moved to approve the Certification of Hearings conducted on June 14, 2021, as follows: 1) Designate the Site Selection and Construction of Solar Energy Facilities Greater than 160 Acres in size within the Near-Urban Area of Unincorporated Weld County, Colorado, and the Site Selection and Construction of Solar Energy Facilities Greater than 320 Acres in size within the Ag-Rural Area of Unincorporated Weld County, Colorado, as Activities of State Interest, Pursuant to C.R.S. §24-65.1-203(1)(f). Commissioner James seconded the motion, which carried unanimously.

**PUBLIC INPUT:** No public input was given.

**AMENDMENTS TO AGENDA:** There were no amendments to the agenda.

**CONSENT AGENDA:** Commissioner Freeman moved to approve the Consent Agenda, as printed. Commissioner James seconded the motion, and it carried unanimously.

#### **PROCLAMATIONS:**

1) EATON REDS DAY, CLASS 3A GIRLS VOLLEYBALL STATE CHAMPIONSHIP – JUNE 16, 2021: Chair Moreno read the certificate recognizing the accomplishments of the Eaton Girls Volleyball team in winning the Class 3A State Volleyball Championship and the Board proclaimed June 16, 2021, as Eaton Reds Day. Coach, Gwen Forster, commended the team for facing adversity during the COVID-19

pandemic and introduced the team Seniors, Sydney Leffler, Delaney Ochsner, Abbey Hays and Jisell Chumacero, who praised the coaches and their teammates for challenging them and ending the season with an ultimate success. The remaining teammates introduced themselves for the record, followed by Chelsea and Danny Miller, Assistant Coaches. Ainslie Ross expressed her appreciation for the opportunity to play with a great team and also thanked the parents for their tremendous support. Rylee Martin thanked her teammates and coaches for challenging her to be a better player and fostering lasting friendships. The Commissioners, in turn, commended the entire team for excelling during a very challenging year, demonstrating resilience, and stepping up through perseverance. They encouraged the players to enjoy the excitement of accomplishing their goal and to apply the same principles in life as they look forward to the coming season. *(Clerk's Note: The group gathered for a photo opportunity.)*

#### **WARRANTS:**

1) GENERAL WARRANTS – JUNE 14, AND 15, 2021: Commissioner James moved to approve the General Warrants, as printed. Commissioner Buck seconded the motion. Upon a roll call vote, the motion carried four to one, with Chair Moreno being recused.

2) GREELEY-WELD COUNTY AIRPORT AUTHORITY WARRANTS – JUNE 11, AND 15, 2021: Commissioner Freeman moved to approve the Greeley-Weld County Airport Authority Warrants, as printed. Commissioner James seconded the motion, and it carried unanimously. Upon a roll call vote, the motion carried four to one, with Commissioner Saine opposed.

#### **NEW BUSINESS:**

1) CONSIDER GRANT AWARD LETTER FOR JUVENILE DIVERSION AND MARIJUANA TAX CASH FUND PROGRAM FOR RESTORATIVE JUSTICE SERVICES AND AUTHORIZE CHAIR TO SIGN AND SUBMIT ELECTRONICALLY: Kirsta Britton, 19th Judicial District Attorney's Office, stated the Grant Application and Plan were submitted to the Department of Public Safety on April 14, 2021, and approval of this grant award will authorize acceptance of the funds. Commissioner Buck moved to approve said grant award letter and authorize the Chair to sign and submit electronically. Seconded by Commissioner James, the motion carried unanimously.

2) CONSIDER CONTRACT ID #4800 MEMORANDUM OF UNDERSTANDING FOR COLORADO WORKS PROGRAM AND COLORADO CHILD CARE ASSISTANCE PROGRAM, AND AUTHORIZE CHAIR TO SIGN: Jamie Ulrich, Director of the Department of Human Services, explained this MOU establishes the performance measures, record keeping requirements, governing law, state oversight and training responsibilities, remediation plans, and sanctions and the procedures for implementation. Commissioner Freeman moved to approve said memorandum of understanding and authorize the Chair to sign. The motion was seconded by Commissioner Buck, and it carried unanimously.

3) CONSIDER CONTRACT ID #4801 AGREEMENT FOR RESPITE SERVICES AND AUTHORIZE CHAIR TO SIGN – NICOLAS AND CELINE DEUTSCH: Ms. Ulrich introduced new respite care providers located in Greeley, Colorado. Commissioner James moved to approve said agreement and authorize the Chair to sign, which was seconded by Commissioner Buck, and it carried unanimously.

4) CONSIDER CONTRACT ID #4802 INDIVIDUAL PROVIDER CONTRACT FOR PURCHASE OF FOSTER CARE SERVICES IN A FOSTER CARE HOME AND AUTHORIZE CHAIR TO SIGN – SETH AND BRIANNA JAMES: Ms. Ulrich introduced new foster care providers located in Greeley, Colorado. The motion to approve said contract and authorize the Chair to sign was made by Commissioner Buck, seconded by Commissioner James, and it carried unanimously.

5) CONSIDER CONTRACT ID #4816 INDIVIDUAL PROVIDER CONTRACT FOR PURCHASE OF FOSTER CARE SERVICES IN A FOSTER CARE HOME AND AUTHORIZE CHAIR TO SIGN – GARY

AND MARIA THOMAS: Ms. Ulrich presented the full certification for kinship foster care providers located in Fort Collins, Colorado. Commissioner Buck moved to approve said contract and authorize the Chair to sign. Seconded by Commissioner James, the motion carried unanimously.

6) CONSIDER CONTRACT ID #4804 CHILD PROTECTION AGREEMENT FOR SERVICES AND AUTHORIZE CHAIR TO SIGN – ROUNDUP FELLOWSHIP, INC.: Ms. Ulrich stated this agency will provide crisis intervention and stabilization services. Commissioner Buck moved to approve said agreement and authorize the Chair to sign. The motion was seconded by Commissioner James, and it carried unanimously.

7) CONSIDER CONTRACT ID #4817 CHILD PROTECTION AGREEMENT FOR SERVICES AND AUTHORIZE CHAIR TO SIGN – NORTHERN COLORADO YOUTH FOR CHRIST, DBA REBALANCE: Ms. Ulrich stated this agency will provide mental health services. Commissioner Buck moved to approve said agreement and authorize the Chair to sign, which was seconded by Commissioner Freeman, and it carried unanimously.

8) CONSIDER CONTRACT ID #4807 CONTRACT FOR RENTAL OF ISLAND GROVE REGIONAL PARK EVENT CENTER GREAT HALL FOR WELD SENIOR SYMPOSIUM AND AUTHORIZE CHAIR TO SIGN – CITY OF GREELEY: Ms. Ulrich explained the department will host the Weld Senior Symposium at the Island Grove Event Center Great Hall. She explained this is a public service program where accomplished and respected professionals present community resources which are offered to all Weld County residents. Commissioner Buck moved to approve said rental contract and authorize the Chair to sign. Seconded by Commissioner James, the motion carried unanimously.

9) CONSIDER CONTRACT ID #4810 AMENDMENT #1 TO MEMORANDUM OF UNDERSTANDING FOR WORKFORCE INNOVATION AND OPPORTUNITY ACT (WIOA) SERVICE DELIVERY AGREEMENTS (UNEMPLOYMENT INSURANCE) AND AUTHORIZE CHAIR TO SIGN: Ms. Ulrich stated this amendment extends the term date, updates the in-kind contribution and also amends an Attachment. Commissioner Freeman moved to approve said amendment and authorize the Chair to sign. The motion was seconded by Commissioner James, and it carried unanimously.

10) CONSIDER CONTRACT ID #4818 AGREEMENT FOR RECREATIONAL AND EDUCATIONAL SERVICES FOR COLORADO WORKS SUMMER ACTIVITIES PROGRAM AND AUTHORIZE CHAIR TO SIGN – YMCA OF NORTHERN COLORADO: Ms. Ulrich stated this agreement will provide vouchers, in the amount of \$125.00, to eligible youth for educational and recreational activities through the Colorado Works Summer Activities Program. Commissioner Buck moved to approve said agreement and authorize the Chair to sign. Seconded by Commissioner James, the motion carried unanimously.

11) CONSIDER CONTRACT ID #4847 AMENDMENT #3 FOR NURSE HOME VISITOR PROGRAM (NHVP) AND AUTHORIZE CHAIR TO SIGN AND SUBMIT ELECTRONICALLY: Mark Lawley, Director of the Department of Public Health and Environment, reviewed the terms and services to be provided by registered nurses who will conduct home visits with vulnerable, low-income, first-time mothers throughout their pregnancy and continue until the client's child reaches two years of age. Commissioner James moved to approve said amendment and authorize the Chair to sign. The motion was seconded by Commissioner Freeman, and it carried unanimously.

12) CONSIDER CONTRACT ID #4853 AMENDMENT #5 TO DIAGNOSTIC SERVICES AGREEMENT FOR WOMEN'S WELLNESS CONNECTION PROGRAM AND AUTHORIZE CHAIR TO SIGN – BANNER IMAGING SERVICES COLORADO, LLC: Mr. Lawley stated this amendment renews the term dates for Banner to provide the technical component of diagnostic imaging/radiology services for eligible

patients. Commissioner Freeman moved to approve said amendment and authorize the Chair to sign, which was seconded by Commissioner James, and it carried unanimously.

13) CONSIDER CONTRACT ID #4848 TASK ORDER CONTRACT AMENDMENT #3 FOR TUBERCULOSIS PREVENTION AND CONTROL PROGRAM, AND AUTHORIZE CHAIR TO SIGN AND SUBMIT ELECTRONICALLY: Mr. Lawley reviewed the terms for continuation of the Tuberculosis Prevention and Control Program, for the amount of \$55,000.00 in state funding. The motion to approve said amendment and authorize the Chair to sign was made by Commissioner Buck, seconded by Commissioner Saine, and it carried unanimously.

14) CONSIDER CONTRACT ID #4852 TASK ORDER CONTRACT AMENDMENT #4 FOR AIR QUALITY PROGRAM AND AUTHORIZE CHAIR TO SIGN AND SUBMIT ELECTRONICALLY: Mr. Lawley stated for over 25 years the Weld County Department of Public Health and Environment has performed air quality functions such as operating an air quality monitoring network, conducted inspections and provided enforcement guidance, issued burning permits, and responded to complaints, and this amendment is a continuation of the funding for said services. In response to Commissioner James, Mr. Lawley confirmed inspections are only conducted on a complaint basis and there no active patrolling. Commissioner James moved to approve said amendment and authorize the Chair to sign. Seconded by Commissioner Buck, the motion carried unanimously.

15) CONSIDER CONTRACT ID #4849 TASK ORDER CONTRACT FOR COMMUNITIES THAT CARE YOUTH SUBSTANCE ABUSE PREVENTION PROGRAM AND AUTHORIZE CHAIR TO SIGN AND SUBMIT ELECTRONICALLY: Mr. Lawley reviewed the terms for use of Marijuana Tax revenues, in the amount of \$167,000.00, to implement local health agency programs. Commissioner Buck moved to approve said contract and authorize the Chair to sign. The motion was seconded by Commissioner Freeman, and it carried unanimously.

16) CONSIDER CONTRACT ID #4851 STATEMENT OF WORK FOR WASTE TIRE INSPECTION PROGRAM AND AUTHORIZE CHAIR TO SIGN: Mr. Lawley explained the Health Department has assisted the Colorado Department of Public Health and Environment for the past three (3) years with efforts to ensure the waste tire industry complies with the Solid Waste Act and Regulations within Weld County. He stated the Statement of Work will authorize a purchase order for reimbursement of eligible costs, including related staff wages, benefits, travel costs, materials and supplies. Commissioner James moved to approve said statement of work and authorize the Chair to sign. Commissioner Freeman seconded the motion, and it carried unanimously.

17) CONSIDER RENEWAL APPLICATION FOR FERMENTED MALT-BEVERAGE ON-PREMISES (COUNTY) LIQUOR LICENSE AND AUTHORIZE CHAIR TO SIGN – ANA M. LUCERO, DBA POLLO FELIZ: Bob Choate, Assistant County Attorney, provided a brief description of the location of the site, which is an enclave surrounded by the City of Greeley. He confirmed there were no concerns expressed by the referral agencies, nor was the applicant present. Commissioner Freeman moved to approve the renewal application and authorize the Chair to sign the application and license. Seconded by Commissioner Buck, the motion carried unanimously.

18) CONSIDER RENEWAL APPLICATION FOR HOTEL AND RESTAURANT (COUNTY) LIQUOR LICENSE AND AUTHORIZE CHAIR TO SIGN – R AND D 14 CORRIDOR, LLC, DBA DEWEY'S BAR AND GRILL: Mr. Chaote stated the applicant purchased the property, in 2019, which is located in Stoneham, Colorado, and he noted no referral concerns were received. Commissioner Freeman moved to approve the renewal application and authorize the Chair to sign said application and license. Seconded by Commissioner Buck, the motion carried unanimously.

19) CONSIDER RENEWAL APPLICATION FOR BREW PUB (COUNTY) LIQUOR LICENSE AND AUTHORIZE CHAIR TO SIGN – TAPPIST MUNKS, LLC, DBA OUTWORLD BREWING: Mr. Chaote stated the applicant has been licensed to conduct business at the location in Longmont, since 2016. He noted there was an initial concern submitted by the Department of Planning Services concerning a zoning violation resulting from unpermitted signage and cargo containers; however, the property owner has since resolved the violation and there are no remaining concerns. Commissioner Saine moved to approve the renewal application and authorize the Chair to sign said application and license. Seconded by Commissioner James, the motion carried unanimously.

**PLANNING:**

1) CONSIDER REQUEST TO EXTEND TIME TO RECORD THE MAP OR REQUEST TO RESCIND RESOLUTION #2018-3253, DATED OCTOBER 17, 2018, FOR USE BY SPECIAL REVIEW PERMIT, USR18-0028 – DITTMER FARM, LLC, C/O TIMOTHY DITTMER, AND BLUE PILL, LLC, C/O KENDAL DITTMER: Commissioner Saine recused herself from considering this matter. Michael Hall, Department of Planning Services, stated staff is seeking direction concerning action to be taken for this case, which was approved but the map has not been perfected. He explained notice of this hearing was sent by Certified mail to both applicants, as well as regular mail to secondary addresses; however, staff received evidence that neither notice was received by Blue Pill, LLC, c/o Kendal Dittmer. Additionally, he sent reminder emails to both parties on Monday June 14, 2021, at which time both parties were aware of the hearing. Tim Naylor, AGPROfessionals, represented the Blue Pill, LLC, c/o Kendal Dittmer, and confirmed although they received notice two days ago, they have been involved through the duration of the USR permitting process and are prepared to proceed today. Tim Dittmer, Dittmer Farm, LLC, stated he preferred to rescind the USR. He explained Planning Services staff and the Planning Commission have denied the well site application submitted by Incline Energy, and this USR is hindering that process.

Given that both property owners indicated their desire to proceed, Mr. Hall provided a brief summary of the original USR request and stated, as of today, all the Conditions of Approval (COA) have been completed and a draft plat map submitted, but not recorded. Additionally, Mr. Timothy Dittmer has submitted a request to rescind the USR. Mr. Naylor stated his client submitted a mylar plat signed by both owners, but it was returned by staff once the WOGLA process was initiated. He asserted it should have been recorded a year ago, once the COA were completed. Responding to Commissioner James, Mr. Naylor clarified the mylar map was held while the applicant completed the augmentation plan, but once that was done, it should have been recorded, and updates should not be required reflecting site layout changes made concerning the WOGLA, since they are a Use by Right and not dependent on each other. Mr. Hall clarified while waiting for the well augmentation, the applicants proceeded with a WOGLA use which substantially changed the site plan (USR map) by adding an expanded third-party use; however, the WOGLA use was later denied, but staff is still requiring an updated map to reflect the larger ponds and adjusted access.

Mr. Barker stated there is no process to rescind a permit based on the request of only one owner, and although a revised map was submitted, it is not signed by both owners, so the remaining option is to extend the time to record the USR map while both property owners come to an agreement concerning the layout. Mr. Naylor commented if the map had previously been perfected and then the ponds were expanded, it would not have required an amendment to the USR, because it is a Use by Right pond. Commissioner Buck commented both parties need to agree and an extension of time is appropriate. Mr. Naylor stated both property owners have been significantly, financially harmed throughout the duration of the process, and an updated map was only submitted as a courtesy. Timothy Dittmer explained Incline Energy will reapply for a WOGLA if the USR is rescinded. He stated the anticipated timeline and profitability of the USR is questionable; however, the Oil and Gas use could be developed and profitable within three (3) years. Thus, from his perspective, there is no benefit to sign and record a new map. Responding to Commissioner James, Mr. Hall clarified the request is being presented by staff

seeking direction from the Board, which was originally prompted by the request from Incline Energy to rescind the USR. Responding to Commissioner James, Mr. Barker stated the applicants have surpassed the time allowed by the Code to record the USR map, and he also acknowledged the argument made by Mr. Naylor about the poor timing; however, the outstanding issue remains whether to record the original map, but that would need to be through a separate request or appeal of staff's decision. The issue which was noticed for the Board's consideration today is whether to extend or rescind. Mr. Naylor requested an additional 120 days to work with all of the parties involved. Commissioner Freeman moved to approve the request to extend time to record the USR map and issue a continuance of this matter to Monday, October 18, 2021, at 9:00 a.m. Commissioner Buck seconded the motion. The Commissioners discussed 120 days should afford the parties involved an opportunity to bring clarity to the situation. There being no further discussion, the motion carried unanimously.

**RESOLUTIONS AND ORDINANCES:** The resolutions were presented and signed as listed on the Consent Agenda. No Ordinances were approved.

Let the minutes reflect that the above and foregoing actions were attested to and respectfully submitted by the Clerk to the Board.

There being no further business, this meeting was adjourned at 10:14 a.m.

BOARD OF COUNTY COMMISSIONERS  
WELD COUNTY, COLORADO

ATTEST:

Weld County Clerk to the Board

BY: \_\_\_\_\_  
Deputy Clerk to the Board

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Steve Moreno, Chair

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Scott K. James, Pro-Tem

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Perry L. Buck

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Mike Freeman

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Lori Saine