

RECORD OF PROCEEDINGS

MINUTES

BOARD OF COUNTY COMMISSIONERS WELD COUNTY, COLORADO MONDAY, NOVEMBER 7, 2022

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, November 7, 2022, 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 Scott K. James, Chair
Commissioner Mike Freeman, Pro-Tem
Commissioner Perry L. Buck
Commissioner Steve Moreno
Commissioner Lori Saine

Also present:

County Attorney, Bruce Barker
Acting Clerk to the Board, Houston Aragon
Chief Financial Officer, Cheryl Pattelli

MINUTES:

1) Commissioner Moreno moved to approve the Minutes of the Board of County Commissioners meeting of October 19, 2022, as printed. Commissioner Buck seconded the motion, and it carried unanimously.

2) Commissioner Freeman moved to continue the Minutes of the Board of County Commissioners meeting of October 24, 2022, to Wednesday, November 9, 2022. Commissioner Moreno seconded the motion, and it carried unanimously.

READ ORDINANCE BY AUDIO: Commissioner Buck moved to read Code Ordinances #2022-06 and #2022-09 by audio. The motion was seconded by Commissioner Moreno, and it carried unanimously.

CERTIFICATION OF HEARINGS: Commissioner Buck moved to approve the Certification of Hearings conducted on October 19, and 24, 2022, as follows: 1) Public Hearing Concerning the Updated 2022-2023 Annual Action Plan and its' Proposed Use of the 2022 CDBG Funds for Infrastructure Improvements, Public Facilities, Public Services, Housing Preservation, and General Grant Administration, 2) PUDZ22-0001 – REI, LLC, dba Investors, LLC, and Beebe Draw Farms Authority, 3) USR22-0019 – Gabriel and Maricela Rocha, 4) USR22-0021 – Kyle Schwartz and Abigail Renner, and 5) PCSC22-0010 – Paul Page. Commissioner Freeman 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 Saine seconded the motion and it carried unanimously.

COMMISSIONER COORDINATOR REPORTS: Commissioner Buck reported she, alongside Commissioner Moreno and Chair James, visited a homeless shelter in Colorado Springs, Colorado, and stated the mission was remarkable. In addition, Commissioners Buck, Freeman, and Moreno attended the West Greeley Soil Conservation dinner which was well attended. Lastly, Commissioner Buck reported she went on a six (6) hour tour of Northern Weld County, and thanked staff who attended as well. Commissioner Moreno thanked Toby Taylor, Director of the Facilities Department, for the replacement chairs for the Board members in the hearing room, as the previous ones were falling apart. Commissioner Saine reported she was pleased with Public Safety Day, and shared that the presentation made by Jay McDonald, Director of the Department of Public Works, was touching and she learned about the culture within the Department of Public Works that has been instilled under his leadership, and shared the story of "What's Your Shed." Chair James also thanked Mr. McDonald for his motivational presentation and comments.

WARRANTS:

1) GENERAL WARRANTS – NOVEMBER 1-4, 2022: Commissioner Buck moved to approve the General Warrants, as printed. Commissioner Freeman seconded the motion, and it carried unanimously.

BIDS:

1) APPROVE BID #B2200142, PRINT SHOP ROOF REPLACEMENT – FACILITIES DEPARTMENT: Christie Peters, Purchasing Department, stated staff recommends selecting the lowest bidder who met specifications, J and K Roofing, LLC, for a total amount of \$51,174.84. Commissioner Buck moved to approve said bid. The motion was seconded by Commissioner Saine, and it carried unanimously.

2) APPROVE BID #B2200150, CISCO ACCESS POINTS – DEPARTMENT OF INFORMATION TECHNOLOGY: Ryan Rose, Director of the Department of Information Technology, stated staff recommends selecting the sole bidder who met specifications, Lewan Technology, for a total amount of \$78,726.72. He stated the County has previously purchased from this company, the bid is consistent in pricing, and this is part of the capital improvement plan for the 2022 fiscal year. Commissioner Freeman moved to approve said bid. The motion was seconded by Commissioner Buck, and it carried unanimously.

3) APPROVE BID #B2200151, CISCO NETWORK SWITCHES – DEPARTMENT OF INFORMATION TECHNOLOGY: Mr. Rose stated staff recommends selecting the sole bidder who met specifications, Lewan Technology, for a total amount of \$49,999.40. He stated the County has previously purchased from this company, the bid is consistent in pricing, and this is part of the capital improvement plan for the 2022 fiscal year. Commissioner Moreno moved to approve said bid. The motion was seconded by Commissioner Buck, and it carried unanimously.

4) PRESENT BID #B2200162, ECS STORAGE EXPANSION – DEPARTMENT OF INFORMATION TECHNOLOGY: Mr. Rose stated one (1) bid was received and staff will make a recommendation on November 21, 2022.

5) PRESENT BID #B2200148, CAMERA EQUIPMENT AND LICENSING ACQUISITION – FACILITIES DEPARTMENT: Ms. Peters stated three (3) bids were received and staff will make a recommendation on November 21, 2022.

6) PRESENT BID #B2200155, EXHIBITION BUILDING SIDEWALK PROJECT – FACILITIES DEPARTMENT: Ms. Peters stated four (4) bids were received and staff will make a recommendation on November 21, 2022.

NEW BUSINESS:

1) CONSIDER CONTRACT ID #6436 AGREEMENT FOR PURCHASE OF CERTAIN PROPERTY FOR PUBLIC ROAD IMPROVEMENTS WHERE CR 2.5 TERMINATES AT UNION PACIFIC RAILROAD RIGHT-OF-WAY, AND AUTHORIZE CHAIR TO SIGN ANY NECESSARY DOCUMENTS – SAKATA LAND COMPANY: Tiffane Johnson, Department of Public Works, stated this agreement is for a cul-de-sac turnaround at a Union Pacific Railroad crossing closure. She stated the County will be acquiring 0.345 acres for the cost of \$3,650.00, in exchange for right-of-way and a temporary construction easement. Ms. Johnson explained the County will relocate a concrete irrigation structure, and has offered a signing incentive to commence construction immediately upon expedited crop harvest. Commissioner Moreno stated this is a necessary improvement based on a recent trip he took to this area and saw the issues firsthand, and he further moved to approve said agreement and authorize the Chair to sign any necessary documents. The motion was seconded by Commissioner Saine, and it carried unanimously.

2) CONSIDER TEMPORARY CLOSURE OF CR 72 BETWEEN CRS 47 AND 49: Amy Mutchie, Department of Public Works, stated this closure will begin on November 21, 2022, and go through March 31, 2023, for the replacement of Bridge 72/47B, as this bridge was determined an E.R.F (Essential Repair Finding) grade from the State inspection. She further stated magnesium chloride will be used for dust mitigation on the gravel detour route, and message boards will be placed in advance of the closure. Commissioner Freeman moved to approve said temporary closure. The motion was seconded by Commissioner Buck, and it carried unanimously.

3) CONSIDER DUST BLOWING CITATION PURSUANT TO C.R.S. §35-72-103 – JEROLD AND ALICE HOFFMAN (*SCHEDULED FROM 7/25/2022*): Bruce Barker, County Attorney, explained the Board entered into a Findings and Order for the property owner to accomplish certain directives to lessen the blowing dust and to comply by October 24, 2022. He referenced the photographs and findings, remedial and emergent in nature, and stated an Order is necessary to determine if the property meets compliance.

Elizabeth Schneider, West Greeley Soil Conservation District, reported the property owner has mostly leveled out the soil drifts and some manure was put in place, but it is not enough to mitigate the soil from continuing to blow, and the weeds that were present are mostly dead as they are seasonal, leaving bare soil to blow. She further stated there has been no attempt in fulfilling the request that they plant grass seed to anchor the soil, and in her opinion the property owners have not complied with the Orders given by the Board on July 25, 2022. (*Clerk's Note: The Chair requested a few moments to read the documents given to them.*)

In response to Chair James, Mr. Barker informed the Board that their jurisdiction has ended, if in fact the property owner has complied with the Orders the Board issued. He further stated the problem with the Order given is that it does not specify where on his property, nor to what extent, and based on the testimony given today, the property owner has applied manure and weeds were mowed, so the property is compliant. Mr. Barker acknowledged the West Greeley Soil Conservation District does a great job working with property owners; however, there is the likelihood that soil may blow again if they don't continue to fully remediate the property as recommended, and this process will likely be repeated with further detail and specifics included.

Commissioner Saine objected to the notion that the orders have been met, due to the word “shall” take the steps necessary to prevent or materially lessen dust blowing in the five (5) Findings of Evidence as stated in the Resolution. Mr. Barker advised that by taking action against the property owner, the Board would be extending their jurisdiction beyond what the statute allows. In response to Commissioner Moreno, Ms. Schneider agreed the property also contains flood irrigated hay, the grass has been heavily grazed, and 3/4 of the property is covered in annual weeds that are now dying which will cause blowing soil through the fall and winter, and into the spring, with the need for ongoing remediation to prevent this happening year after year. After extensive discussion among the Board, Mr. Barker stated if the Board finds that Mr. Hoffman did not comply with the Order, the statutory remedy is that the Commissioners hire a company to do the work that was ordered on the property, and the County pays for that service and can get reimbursement up to \$40.00 per acre as an assessment against the property. He further clarified the cost would likely be higher than that amount and the County would be at a loss in that regard. After further discussion among the Board, Chair James invited public testimony concerning this matter.

Jerrold Brethauer stated he and his wife farm the adjacent property for the landowner, and confirmed that Mr. Hoffman did remove the berm of soil, but that soil is as fine as flour, and even a slight wind causes it to blow and build back up. He further stated now that the fence has been removed, the next natural wind break is their wheat crop, which in some places is already buried a foot deep. Mr. Brethauer stated because of blowing soil, their crop of corn was burned which diminished their crop yield, and has had a direct effect on their livelihood.

Commissioner Saine reviewed the findings that she feels are criteria that have not been adequately met to prevent this from happening again and moved to take measures to protect the neighbors and the integrity of agriculture. Mr. Barker stated the property owners were not noticed as to the potential for future orders, but to make the findings based on evidence that they have or have not complied with the Orders that were issued July 25, 2022. He further stated the Board could continue this matter to a certain date to enter an Order to contact a company to enter the property and complete the necessary work. In response, Commissioner Saine moved to continue said dust blowing citation, to Monday, November 21, 2022, at 9:00 a.m. Mr. Barker advised Commissioner Saine to clarify in her motion that the manure needed to be applied and weeds removed throughout the entire property. The motion was seconded by Commissioner Buck, as amended. Upon further discussion, it was requested of the West Greeley Soil Conservation District to closely monitor this property and be in communications with the County, and to be much more specific with their citation complaints. There being no further discussion, upon a roll call vote, the motion failed four (4) to one (1), with Commissioner Saine being the supporting vote. Commissioner Moreno moved to dismiss said blowing soil citation. Commissioner Freeman seconded the motion, and upon a roll call vote, the motion passed four (4) to one (1), with Commissioner Saine opposed.

4) FIRST READING OF CODE ORDINANCE #2022-06, IN THE MATTER OF REPEALING AND REENACTING, WITH AMENDMENTS, CHAPTER 5 REVENUE AND FINANCE OF THE WELD COUNTY CODE (*ANNUAL FEES*): Jennifer Oftelie, Budget Manager, reviewed the proposed revisions that are being considered to be changed in the Weld County Code for the record. No public testimony was offered concerning this matter. Commissioner Moreno moved to approve Code Ordinance #2022-06. The motion was seconded by Commissioner Freeman, and upon a roll call vote, the motion passed four (4) to one (1), with Commissioner Saine opposed.

5) FINAL READING OF CODE ORDINANCE #2022-07, IN THE MATTER OF REPEALING AND REENACTING, WITH AMENDMENTS, CHAPTER 3 HUMAN RESOURCES OF THE WELD COUNTY CODE (*APPEARANCE/DRESS CODE AND SICK/LEAVE TIME*): Commissioner Freeman moved to read Code Ordinance #2022-07, by title only. Commissioner Buck seconded the motion, and it passed unanimously. Mr. Barker read the title for the record. Ryan Rose, Director of Administrative Services, alongside Jill Scott, Director of the Department of Human Resources, stated there have been no changes

since the Second Reading. No public testimony was offered concerning this matter. Commissioner Saine moved to approve Code Ordinance #2022-07 on Final Reading. The motion was seconded by Commissioner Moreno, and it carried unanimously.

PLANNING:

1) CONSIDER PARTIAL VACATION OF TWO-LOT RECORDED EXEMPTION, RE-4721, FOR REMOVAL OF LOT B – STANLEY AND MARY ODENBAUGH: Chris Gathman, Department of Planning Services, stated the applicants have requested the removal of Lot B, which will result in an approximate 68-acre unplatted parcel. He reviewed access for this property and stated the shared access will remain on the vacation plat, and further stated there is floodplain/floodway to be identified on the plat. Stanley Odenbaugh, applicant, was present to answer questions. Commissioner Freeman moved to approve said partial vacation, with the Condition of Approval. The motion was seconded by Commissioner Buck, and it carried unanimously.

2) CONSIDER PARTIAL VACATION OF TWO-LOT CORRECTED RECORDED EXEMPTION, RE-3218, FOR REMOVAL OF LOT B – GERALD JOHNSON: Mr. Gathman stated the parcel is just over 120 acres, and all easements will remain on the vacation plat. Gerald Johnson, applicant, was present and stated he installed a well years ago with the intent to sell, and is supportive of the proposed buyer. Commissioner Saine moved to approve said partial vacation, with the Condition of Approval. The motion was seconded by Commissioner Buck, and it carried unanimously.

3) CONSIDER PARTIAL VACATION OF USE BY SPECIAL REVIEW PERMIT, USR-1160 (SECOND AMENDED USR-386) – COORS ENERGY COMPANY: Michael Hall, Planning Services, stated staff received a letter of request from the applicant to partially vacate the Use by Special Review Permit, USR-1160, which is the Second Amended USR-386, for an Open-Pit Coal Mine and Solid Waste Disposal Facility located in Keenesburg, Colorado. He further stated this facility is also permitted by the Colorado Division of Reclamation, Mining and Safety, Permit No. C-1981-082, and this mine has been partially reclaimed from this area. Mr. Hall stated the area to be vacated is the eastern edge of the property, resulting in an approximate 42-acre unplatted parcel. No public testimony was offered concerning this matter. Commissioner Buck moved to approve said partial vacation, with the Conditions of Approval. The motion was seconded by Commissioner Saine, and it carried unanimously.

4) FIRST READING OF CODE ORDINANCE #2022-09, IN THE MATTER OF REPEALING AND REENACTING, WITH AMENDMENTS, CHAPTER 2 ADMINISTRATION AND CHAPTER 24 SUBDIVISIONS OF THE WELD COUNTY CODE (*CONSENT EXEMPTION VACATIONS*): Mr. Barker stated there are two (2) parts that are included with these proposed changes to the Code; the first to Section 2-1-30, regarding partial vacations to Recorded Exemptions to be listed on the Consent Agenda, but have the ability to move that item of business as a New Business item to be discussed if there is someone in attendance who wishes to do so. He further stated the other part is regarding the details in partial vacations to Recorded Exemptions in Chapter 24. Commissioner Saine commented she supports the proposed changes to streamline the process. No public testimony was offered concerning this matter. Commissioner Saine moved to approve Code Ordinance #2022-09 on First Reading. The motion was seconded by Commissioner Moreno, and it carried unanimously.

RESOLUTIONS AND ORDINANCES: The Resolutions were presented and signed as listed on the Consent Agenda. Code Ordinance #2022-07 was approved on Final Reading, and Code Ordinances #2022-06, and #2022-09 were approved on First Reading.

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 10:16 a.m.

These Minutes were approved on the 21st day of November, 2022.

BOARD OF COUNTY COMMISSIONERS
WELD COUNTY, COLORADO

ATTEST:

Weld County Clerk to the Board

BY: _____
Deputy Clerk to the Board

Scott K. James, Chair

Mike Freeman, Pro-Tem

Perry L. Buck

Steve Moreno

Lori Saine