

RECORD OF PROCEEDINGS

MINUTES

BOARD OF COUNTY COMMISSIONERS WELD COUNTY, COLORADO MONDAY, JANUARY 16, 2023

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, January 16, 2023, 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 Mike Freeman, Chair
Commissioner Perry L. Buck, Pro-Tem
Commissioner Scott K. James - EXCUSED
Commissioner Kevin D. Ross
Commissioner Lori Saine

Also present:

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

PUBLIC INPUT: No public input was given.

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

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

COMMISSIONER COORDINATOR REPORTS: Commissioner Ross stated he met with each of the departments he coordinates and was briefed on projects that are currently underway, as well as others coming in the near future. He reported the roundabout construction at the intersection of County Roads 74 and 33, will begin very soon and will take an estimated 200 days for completion. Commissioner Ross explained by making roundabouts at these intersections, it eliminates the risk of broadside collisions and the injuries that come with it. Commissioner Saine stated she met with her respective departments and is looking forward to long-term plans to improve processes for the County and Code.

PROCLAMATIONS:

1) EATON REDS DAY, CLASS 2A STATE FOOTBALL CHAMPIONSHIP – JANUARY 16, 2023: Chair Freeman used his privilege to designate Commissioner Ross to read the proclamation for the record. Zac Lemon, Head Coach, expressed his gratitude for the Board's recognition and further commended the team on their incredible back-to-back-to-back championships, and quoted Nick Sabin, "When your best players on the field are also the best men on your team, you're going to have a successful team." He stated, as a result this season's championship is due, in-part, to great talent, but more so this team of players are also some incredible young men. In turn, each player introduced themselves, and stated their position played and grade level for the record. The Commissioners, in turn,

congratulated the players and recognized all of their hard work and dedication. Chair Freeman echoed the sentiments shared and wished the seniors luck in their future endeavors. (*Clerk's Note: The group gathered for a photo opportunity.*)

WARRANTS:

1) GENERAL WARRANTS – JANUARY 13, 2023: Commissioner Ross moved to approve the General Warrants, as printed. Commissioner Buck seconded the motion, and it carried unanimously.

2) COMMISSIONER WARRANTS (LORI SAINÉ) – JANUARY 13, 2023: Commissioner Ross moved to approve the Warrant as printed. Commissioner Buck seconded the motion, and upon a roll call vote, the motion carried three (3) to zero (0), with Commissioner Sainé recused.

BIDS:

1) PRESENT BID #B2200177, AUDIO VISUAL EQUIPMENT UPGRADE – FACILITIES DEPARTMENT: Christie Peters, Purchasing Department, stated one (1) bid was received and staff will make a recommendation on January 30, 2023.

2) PRESENT BID #B2300002, FULL SIZE 4X4 CREW CAB PICKUP PURSUIT RATED (QTY 3) – SHERIFF'S OFFICE: Ms. Peters stated one (1) bid was received and staff will make a recommendation on January 30, 2023. (*Clerk's Note: Pursuant to Section 5.4.80, Subsection A.27.d of the Weld County Code, these vehicles were purchased on an emergency basis; therefore, the subsequent approval by the Board of County Commissioners, scheduled for January 30, 2023, was cancelled.*)

NEW BUSINESS:

1) CONSIDER STANDARD TERMS AND CONDITIONS OF ENGAGEMENT AGREEMENT AND AUTHORIZE CHAIR TO SIGN – LAW OFFICE OF ED FRADO, LLC: Stacy Datteri-Frey, Department of Human Resources, stated a pass-around was approved by all five (5) Commissioners on January 9, 2023, and staff recommends approval. Commissioner Ross moved to approve said agreement and authorize the Chair to sign. The motion was seconded by Commissioner Buck, and it carried unanimously.

2) CONSIDER TEMPORARY CLOSURE OF CRS 66 AND 41 INTERSECTION: Clay Kimmi, Department of Public Works, stated this closure will begin on February 1, 2023, and go through June 30, 2023, to install a new box culvert and irrigation pipelines, correct sight-distance issues, and widen the intersection with the addition of left turn lanes. Commissioner Ross moved to approve said temporary closure. The motion was seconded by Commissioner Sainé, and it carried unanimously.

3) CONSIDER INTERGOVERNMENTAL AGREEMENT FOR PAYMENT OF FEDERAL MINERAL LEASE FUNDS FOR ROAD IMPROVEMENTS PROJECT FUNDING AND AUTHORIZE CHAIR TO SIGN – FEDERAL MINERAL LEASE ACT DISTRICT: Cheryl Pattelli, Chief Financial Officer, stated this is an annual agreement for funds received and approved by the Federal Mineral Lease Act Board, in the amount of \$1,200,000.00, for various road improvement projects. Chair Freeman stated this program originated in 2011, and he has been President of the Federal Mineral Lease Act Board since 2013. He further referenced the next business item, and stated these programs are extremely beneficial to Weld County. Commissioner Buck moved to approve said agreement and authorize Chair to sign. The motion was seconded by Commissioner Ross, and it carried unanimously.

4) CONSIDER INTERGOVERNMENTAL AGREEMENT FOR PAYMENT OF FEDERAL MINERAL LEASE FUNDS FOR WATER TESTING PROGRAM FUNDING AND AUTHORIZE CHAIR TO SIGN – FEDERAL MINERAL LEASE ACT DISTRICT: Chair Freeman commented, since the beginning of this water testing program, there have been over 900 wells tested at no cost to the well owner. Ms. Pattelli stated the approved amount is \$52,000.00. Commissioner Ross moved to approve said agreement and authorize Chair to sign. Seconded by Commissioner Buck, the motion carried unanimously.

5) CONSIDER DECLARATION OF CERTAIN EQUIPMENT AS SURPLUS PROPERTY AND AUTHORIZE DISPOSAL: Ms. Pattelli stated the item referenced as Exhibit A will be disposed of, rather than sent to auction, since this item no longer functions, and staff recommends approval. Commissioner Buck moved to declare said equipment as surplus and authorize disposal. The motion was seconded by Commissioner Saine, and it carried unanimously.

6) CONSIDER APPOINTMENT TO NORTH FRONT RANGE WATER QUALITY BOARD: Tom Parko, Director of the Department of Planning Services, stated Skip Holland was a previous member on this Board and has retired. Mr. Parko acknowledged he is an Alternate Member, and sits on the Executive Committee, and staff recommends Katie Sall be appointed to said Board. Commissioner Saine moved to approve said appointment. The motion was seconded by Commissioner Ross, and it carried unanimously.

PLANNING:

1) CONSIDER PARTIAL VACATION OF SECOND MINOR AMENDED USE BY SPECIAL REVIEW PERMIT, 2MUSR17-01-1329 – LOVELAND READY-MIX CONCRETE, INC. Kim Ogle, Department of Planning Services, stated staff received a letter, dated November 22, 2022, from the applicant to partially vacate Second Minor Amended Use by Special Review Permit, 2MUSR17-01-1329, to satisfy the reclamation process, as this parcel was conveyed to Dustin and Jamie Christiansen, who are requesting the release of this property from the permit boundary. The applicant was not present. Commissioner Saine moved to approve said partial vacation. The motion was seconded by Commissioner Buck, and it carried unanimously.

2) CONSIDER REQUEST TO WITHDRAW APPLICATION FOR CHANGE OF ZONE, PZ-1094, FROM A (AGRICULTURAL) ZONE DISTRICT TO PUD (PLANNED UNIT DEVELOPMENT) ZONE DISTRICT (NEW CACHE ESTATES), AND RESCIND RESOLUTION #2006-2775, DATED NOVEMBER 1, 2006 – MICHAEL AND LINDA MCKEE: Based on information in the public record, Commissioner Saine moved to approve said withdrawal, and rescind Resolution #2006-2775. The motion was seconded by Commissioner Ross, and it carried unanimously.

3) CONSIDER TWO-LOT RECORDED EXEMPTION, RECX20-0078 – BARRY AND JOYCE BROMLEY: Maxwell Nader, Department of Planning Services, stated Recorded Exemption, RECX20-0078, was administratively approved with Conditions of Approval, on September 3, 2020. Mr. Nader gave a brief overview of the proposed RECX, and explained the applicants' intent was to split their parent's parcel of land into two (2) lots: Lot A to become theirs and Lot B remaining with the parents. He presented aerial and vicinity maps while he explained this was a one-time only split of a parcel created prior to subdivision regulations being stipulated in the Weld County Code. Mr. Nader stated there is one (1) remaining condition, #2.B and it's sub-parts, which has not been satisfied, and further explained staff understands that extenuating circumstances exist, and the applicant has actively worked for over a year to secure an Access and Utility Easement and Crossing Agreement with the Great Western Railroad and OmniTrax. He stated staff denied the application since the Condition of Approval was not completed, and at that time the applicants requested to have this case presented to the Board. In response to Commissioner Ross, Mr. Nader pointed out the proposed site to be turned into Lot A, and it's relation to the railroad.

Dave and Angela Bromley, son and daughter-in-law of the applicants, were present for questions, and in response to Chair Freeman, they explained the issues with Great Western Railroad (GWR) and the reason they requested the hearing before the Board. Mr. Bromley stated the applications or documents GWR sent them were for commercial properties and not for a private residence, and the fees associated with that are unattainable for them to finance. He further stated his parents currently live on the property (*Proposed Lot B*), and County Road (CR) 38 is their only access, and has been since they purchased the property nearly 30 years ago. Mr. Bromley explained there have been no improvements or activity to the railroad until 2022, being used as a mode of transportation for a nearby distribution site for Pioneer Sand and Gravel, which is adjacent to his parents' property. In response to Commissioner Saine, Mr. Bromley confirmed that securing access to the proposed Lot A would be entirely their responsibility and the County cannot guarantee such access. In response to Bruce Barker, County Attorney, Mr. Bromley confirmed they currently cross the railroad to access their property, but GWR has not been to the property for inspection, and has not complained to date. He also confirmed that he and his family maintain the road on either side of the railroad crossing, and to his knowledge GWR has never objected to their maintenance.

Mr. Barker informed the applicant that if the Board approves the Resolution, GWR has the right at any time to tell them they cannot cross the railroad, thus blocking the access to this parcel of property they wish to build their home on, and effectively blocking access to his parents' property as well, so he advised them to seek private legal counsel to negotiate with GWR on their behalf. Dawn Anderson, Department of Planning Services, stated there is the possibility to have an access created through the parcel of land where Pioneer Sand and Gravel is located, but it would not meet County Code. She further stated that given the circumstances, she believes that this would meet criteria for a variance approval given the proof of hardship. In response, Mr. Bromley stated they would prefer not to go that route due to the road constantly being degraded by commercial trucks and the workings of the business creating large divots in the road. After discussion among the Board, Mr. Barker stated to minimize risk for the County, the Resolution should be amended to delete Condition #2.B, and re-letter and insert a new Condition #3.B to state, "*Weld County does not ensure access across the tracks of the Great Western Railroad. The property owner has the sole responsibility to ensure such access.*" The applicants agreed. Commissioner Saine moved to approve said Recorded Exemption, with the stated revisions to the Conditions of Approval. The motion was seconded by Commissioner Ross, and it 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 9:55 a.m.

These Minutes were approved on the 30th day of January, 2023.

BOARD OF COUNTY COMMISSIONERS
WELD COUNTY, COLORADO

ATTEST:

Weld County Clerk to the Board

BY: _____
Deputy Clerk to the Board

Mike Freeman, Chair

Perry L. Buck, Pro-Tem

EXCUSED
Scott K. James

Kevin D. Ross

Lori Saine