

RECORD OF PROCEEDINGS

MINUTES

BOARD OF COUNTY COMMISSIONERS WELD COUNTY, COLORADO WEDNESDAY, JANUARY 6, 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, January 6, 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 James moved to approve the minutes of the Board of County Commissioners meeting of January 4, 2021, as printed. Commissioner Buck seconded the motion, and it carried unanimously.

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

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

PUBLIC INPUT: No public input was given.

WARRANTS:

1) GENERAL WARRANTS – DECEMBER 30, 2020, AND JANUARY 5, 2021: Commissioner James moved to approve the General Warrants, as printed. Commissioner Freeman seconded the motion, and it carried unanimously.

NEW BUSINESS:

1) CONSIDER CHANGE ORDER CONTRACT AGREEMENT EXTENSION/AMENDMENT #5 FOR EVIDENCE STORAGE ADDITION (BID #B2000080) AND AUTHORIZE CHAIR TO SIGN – ROCHE CONSTRUCTORS, INC.: Toby Taylor, Director of Buildings and Grounds, reviewed the items requested by the Sheriff's Office following completion of the Crime Lab Evidence Storage area, which will cost an additional \$31,851.33. In response to Commissioner Freeman, Mr. Taylor stated the HVAC system is not yet operating to specifications and staff is working with the vendor to determine the source of the problem.

Commissioner Freeman moved to approve said change order and authorize the Chair to sign. Seconded by Commissioner James, the motion carried unanimously.

2) CONSIDER APPLICATION FOR TRANSFER OF OWNERSHIP FROM LD CROW VALLEY LIQUORS, LLC, DBA CROW VALLEY LIQUORS, TO CROW VALLEY, LTD., DBA CROW VALLEY LIQUORS, FOR RETAIL LIQUOR STORE (COUNTY) LIQUOR LICENSE, AND AUTHORIZE CHAIR TO SIGN: Bob Choate, Assistant County Attorney, stated the establishment has been located in the Townsite of Briggsdale since 1982, and it was sold late last year, with the current owner operating under a Temporary License while the transfer application is being processed. He explained, because there is no change in the needs of the neighborhood, the Board is only considering the applicant's moral character, stating there were no concerns with the background check. He further stated the application was sent out and the referral agencies did not express any concerns. Robert Ekhoﬀ, applicant, was present to answer any questions. No public testimony was offered concerning this matter. Commissioner James moved to approve said transfer of ownership and authorize the Chair to sign. The motion was seconded by Commissioner Buck, and it carried unanimously.

3) CONSIDER CONTRACT ID #4332 RIGHT OF ENTRY FOR CRS 80 AND 37 INTERSECTION PROJECT AND AUTHORIZE CHAIR TO SIGN – CITY OF THORNTON: Clay Kimmi, Department of Public Works, stated the City of Thornton owns property along County Road (CR) 80 and this Right of Entry will grant permission to the County to access the site for survey purposes related to the right-of-way acquisition. He explained the previous entry form expired December 31, 2020, and this renewal will allow the project to continue through December 31, 2021. Commissioner Freeman moved to approve said right of entry and authorize the Chair to sign, which was seconded by Commissioner James, and it carried unanimously.

4) CONSIDER CONTRACT ID #4364 AGREEMENT FOR PURCHASE OF PUBLIC ROAD RIGHT-OF-WAY AND TEMPORARY CONSTRUCTION EASEMENT FOR BRIDGE 86/33A PROJECT AND AUTHORIZE CHAIR TO SIGN ANY NECESSARY DOCUMENTS – STONECREEK, LLC: Tiffane Johnson, Department of Public Works, reviewed the terms and provisions to purchase .002 acres of right-of-way and .005 acres of temporary construction easement to construct the bridge abutments, for the total compensation amount of \$1,580.00. The motion to approve said agreement and authorize the Chair to sign was made by Commissioner Freeman, seconded by Commissioner James, and it carried unanimously.

5) CONSIDER PETITION TO VACATE ROAD AND ALLEY RIGHT-OF-WAY IN UNINCORPORATED HISTORIC TOWNSITE OF WATTENBERG – KENNETH AND DANIELA PEREZ: Mr. Choate explained the purpose of a petition to vacate road and alley right-of-way, pursuant to state statute and Section 8-16-10 of the Weld County Code. He reviewed a PowerPoint slide presentation, which displayed the location of the areas to be vacated, and explained upon vacation the adjacent land owners will acquire half of the right-of-way as an expansion of their property. He stated the reason for the petition is to expand the adjacent parcels to improve access to the septic tank, plant trees and limit traffic near the petitioners' home. He displayed a map depicting the portion of Lenona (aka Leona) Avenue which was previously vacated and the current request. Kenneth Perez, petitioner, clarified the original petition request was to vacate only the area adjacent to Lots 17-20; however, the Department of Public Works recommended cleaning up other adjacent rights-of-way that do not actually exist, resulting in the full petition as displayed. Mr. Choate described various photographs showing the site and surrounding area. He confirmed notice of the petition and hearing was sent to surrounding property owners within 500 feet adjacent to the request and relevant referral agencies, and staff received no concerns. However, the Greater Brighton Fire Protection District did request an emergency access easement because the petitioners own two (2) parcels and the vacation would leave one (1) of the parcels without adjacent public right-of-way, which is allowed as long as access is granted for emergency response. He noted

Xcel Energy also has a gas distribution line in the area, therefore, the Resolution requires an easement reservation, which may be accomplished via a separate easement document or a reservation noted on the survey plat. Mr. Choate reported the Planning staff referral supports the request with a required survey, which is not required by the Weld County Code or law, but it is still recommended since this is in a historic townsite. He reviewed the surrounding lot ownership, including Asphalt Paving which owns all of vacant Block 17 to the south. He explained the survey will show the vacated rights-of-way, new property lines and the easement for Xcel, which should serve to prevent future property disputes and potentially alleviate zoning and building violations in the area.

Daniela Perez, co-petitioner, reiterated their original request was only for the area adjacent to Lots 13-16, and although they have no concern with vacating the additional areas recommended by Public Works staff, they technically have no legal interest in the rights-of-way to the north adjacent to their neighbors. In response to Commissioner James, Mr. Choate explained the draft Resolution requires a survey to be included as Exhibit C, which would then be recorded.

Thomas DeHerrera, surrounding property owner (SPO) and member of the Wattenberg Water Board, stated the petitioners were aware of the proposed water line along Leona Avenue, extending from Frederick Street to Edward Street.

Thomas Castaneda, SPO, indicated the current location of the main water line and the proposed water line loop, questioned who will be responsible for maintenance, and inquired concerning the previous vacation. In response to Commissioner Freeman, Mr. Choate confirmed the previous portion of Leona Avenue was vacated in August, 2016.

Hector Rodriguez, SPO Lot 11, Block 12, expressed concern with a possible taking of his property and inquired who will be responsible for paying the cost.

Andres Hernandez, SPO Lots 17-18 on Christian Street, expressed concern with the vacation eliminating the ability for large Anadarko trucks to access their nearby oil and gas operations.

Tommy DeHerrera, SPO, asserted the petitioners were aware of the plans for the water line to loop from Frederick Street, through Leona Avenue, up to Edward Street. He stated, if approved, the gate will cause access problems for the meter reader, as well as hinder maintenance work on the waterline. In response to Chair Moreno, Mr. DeHerrera confirmed he did speak with Mr. Perez yesterday to discuss the access concerns for the water line and power lines.

Mr. Castaneda returned to express additional concerns regarding the need for future access, and he confirmed he had no prior conversations with the petitioners.

Ramona Mecillas, SPO, stated the vacation will cause problems for the oil and gas trucks that need to use Leona Avenue, not Caroline Avenue, and the lots located at the south end of Leona would not have adequate access. She also confirmed she had no contact with the petitioners.

Chair Moreno closed public testimony. Bruce Barker, County Attorney, cited Section 8-16-30.B of the Weld County Code, which states no public right-of-way may be vacated leaving lots without access. He stated the plat shows eight (8) lots which could be sold individually, and a survey does not extend the lots, rather, that must be accomplished through the Resubdivision process. Responding to Commissioner James, Mr. Barker reiterated the platted lots must have legal access, the Townsite of Wattenberg is within the County's jurisdiction, and he was uncertain as to the public or private status of the water line because the plat does not currently reflect an easement.

Elizabeth Relford, Deputy Director of the Department of Public Works, confirmed it is a private water system, the community partnered with the County to obtain grant funds to make the improvements, the system is maintained by the Wattenberg community members, and the vacation that was completed in 2016 retained a 20-foot easement for future water system needs, so any additional vacated area would still be encumbered with a water line easement and adjacent residents could not build in that area.

Mr. Perez stated there is an existing home on Lots 13-16, as well as a second home on Lots 17-20, his intention was to vacate the right-of-way adjacent to his properties to make sure he had adequate setbacks, while still retaining the 20-foot easement for the future water line. In response to Commissioner Saine, Mr. Barker referenced C.R.S. §43-2-303(2)(a) and agreed that if the alleyway to the north were removed from the petition, then the lots would still have public access to Caroline Avenue. He further stated a vacation can reserve for existing utilities; however, it does not provide for the reservation of an easement for future utilities. Responding to Commissioner Freeman, Mr. Choate confirmed the water line already extends to the west end of Frederick Street, so a 20-foot reservation could be reflected on the survey. Ms. Perez stated their initial goal was to vacate right-of-way adjacent to the new house, and the additional area reflected was added at the recommendation of the Department of Public Works. She commented she was not aware of the multiple lot access issue, since the County public records identify two parcels, not eight (8) lots, and vacating the northern portion of Leona Avenue would not deny access since the adjacent lots can also be accessed from Edward Street. She further stated they are committed to affording any access necessary for water line maintenance needs, and Xcel Energy removed all of the gas lines from the right-of-way and their homes are now served by propane.

Commissioner James stated it is apparent the proper process would be to first consolidate the lots and also expand the lots lines through the Resubdivision process, therefore, he moved to deny the petition to vacate certain road and alley rights-of-way. Commissioner Freeman seconded the motion for purposes of discussion. He stated, if the right-of-way to the north is retained, then the lots would still have legal access, and what has been presented is beyond the original intent of the petitioners. Commissioner Buck commented, rather than proceed, it would be better to have the petition, legal and maps remedied and then consider the request in its final form. In response to Commissioner Freeman, Mr. Barker suggested referring the matter back to staff to work with the petitioners and remedy the petition, maps, exhibits, etcetera. Commissioners James and Freeman withdrew their motion for denial. Commissioner Freeman moved to refer the matter back to staff to work with the petitioners to ensure proper legal access and verify the necessary water line and Xcel Energy utility easements. Seconded by Commissioner Saine, the motion carried unanimously.

6) CONSIDER APPOINTMENT OF DEPUTY DISTRICT ATTORNEY AND AUTHORIZE CHAIR TO SIGN – TAYLOR MEYERS: Commissioner Freeman moved to approve said appointment and authorize the Chair to sign. Seconded by Commissioner Saine, 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 10:03 a.m.

BOARD OF COUNTY COMMISSIONERS
WELD COUNTY, COLORADO

ATTEST:

Weld County Clerk to the Board

BY: _____
Deputy Clerk to the Board

Steve Moreno, Chair

Scott K. James, Pro-Tem

Perry L. Buck

Mike Freeman

Lori Saine